

ITEM 6
INCORRECT REDUCTION CLAIM
PROPOSED DECISION

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

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; Statutes 1990, Chapter 675

Peace Officers Procedural Bill of Rights

Fiscal Years 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008

12-4499-I-02

City of Los Angeles, Claimant

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Exhibit A

1. INCORRECT REDUCTION CLAIM TITLE

Peace Officers Procedural Bill of Rights (POBOR)

2. CLAIMANT INFORMATION

City of Los Angeles

Name of Local Agency or School District

Laura Luna

Claimant Contact

Commanding Officer, Fiscal Ops. Div., Police Dept.

Title

100 West First Street, Room 774

Street Address

Los Angeles, CA 90012

City, State, Zip

(213) 486-8598

Telephone Number

(213) 486-0299

Fax Number

laura.luna@lapd.lacity.org

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this incorrect reduction claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Claimant Representative Name

Title

Organization

Street Address

City, State, Zip

Telephone Number

Fax Number

E-Mail Address

For CSM Use Only

Filing Date:

Received
September 28, 2012
Commission on
State Mandates

IRC #: 12-4499-I-02

4. IDENTIFICATION OF STATUTES OR EXECUTIVE ORDERS

Please specify the subject statute or executive order that claimant alleges is not being fully reimbursed pursuant to the adopted parameters and guidelines.

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174 and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990

5. AMOUNT OF INCORRECT REDUCTION

Please specify the fiscal year and amount of reduction. More than one fiscal year may be claimed.

Fiscal Year	Amount of Reduction
2003-04	\$5,322,345.00
2004-05	\$5,246,404.00
2005-06	\$5,623,807.00
2006-07	\$5,075,344.00
2007-08	\$8,173,996.00

TOTAL: \$29,441,896.00

6. NOTICE OF INTENT TO CONSOLIDATE

Please check the box below if there is intent to consolidate this claim.

☐ Yes, this claim is being filed with the intent to consolidate on behalf of other claimants.

Sections 7 through 11 are attached as follows:

7. Written Detailed

Narrative: pages 1 to 7.

8. Documentary Evidence

and Declarations: Exhibit I.

9. Claiming Instructions:

Exhibit II.

10. Final State Audit Report or Other Written Notice of Adjustment:

Exhibit III.

11. Reimbursement Claims:

Exhibit IV.

(Revised June 2007)

12. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the incorrect reduction claim submission.**

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to Government Code section 17561. This incorrect reduction claim is filed pursuant to Government Code section 17551, subdivision (d). I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief.

Laura Luna

Print or Type Name of Authorized Local Agency
or School District Official

Commanding Officer, Fiscal Operations Div

Print or Type Title

la la

Signature of Authorized Local Agency or
School District Official

9/27/12

Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the incorrect reduction claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

INCORRECT REDUCTION CLAIM

Police Officers Procedural Bill of Rights

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174 and 1178, Statutes of 1978;
Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 1165, Statutes of
1989; and Chapter 675, Statutes of 1990

Filed on behalf of the City of Los Angeles
Annual Reimbursement Claims for Fiscal Years:

2003-04
2004-05
2005-06
2006-07
2007-08

On September 29, 2009, the State Controller's Office (hereinafter "SCO") issued its final audit report on the City of Los Angeles's (hereinafter "City") claims for costs incurred based on the Peace Officers Procedural Bill of Rights (POBOR) program covering five fiscal years. The SCO audited the costs claimed by the City for the period July 1, 2003 through June 30, 2008.

The SCO findings are based on the Commission's statement of decision adopted on September 1, 1999. On March 28, 2008, the Commission adopted amended Parameters and Guidelines which were used by SCO to conduct the audit.

This incorrect reduction claim (IRC) is challenging the SCO's disallowance of all salary, benefit and related indirect costs for the three components included in Finding 1 of the audited claims. The three components are (1) Administrative Activities, (2) Interrogations, and (3) Adverse Comments. The total disallowance was \$29,771,559 in costs claimed to carryout the mandated activities covered by the three components. The disagreement in each of the three is based on the City's contention the SCO erred by limiting the scope of the eligible interrogation, administrative, and adverse comment activities. The City is not seeking restoration of the costs disallowed in the other audit findings.

State Controller's Findings

The SCO had three findings in the audit report. The first finding was for "unallowable salaries, benefits and indirect costs." The second finding was for "overstated services and supplies" and the third finding was for "misstated productive hour rates." As mentioned above, the only disallowances being contested by the City were contained in the SCO's first finding.

Finding 1 – Unallowable salaries, benefits and related indirect costs

The SCO found the City claimed \$35,648,462 in salaries and benefits for all components in the audit period. It determined that \$14,183,993 is allowable and \$21,464,469 is

unallowable. The costs were disallowed because the activities claimed are not identified in the parameters and guidelines as reimbursable costs. The related unallowable indirect costs totaled \$8,307,090.

The City only claimed costs for three of the four eligible cost components. It did not claim costs during the audit period for the Administrative Appeals component. The following table summarizes the claimed, allowable, and unallowable costs for the audit period by reimbursement component.

<u>Reimbursable Component</u>	<u>Claimed</u>	<u>Allowable Costs</u>	<u>Adjustment</u>
Direct Costs:			
Administrative Activities	\$2,864,828	\$118,411	(\$ 2,746,417)
Interrogations	\$12,505,518	\$1,216,206	(\$11,289,312)
Adverse Comments	<u>\$20,278,116</u>	<u>\$12,849,376</u>	<u>(\$ 7,428,740)</u>
Total Direct Costs	\$35,648,462	\$14,183,993	(\$21,464,469)
Total Indirect Costs	<u>\$13,924,628</u>	<u>\$5,617,538</u>	<u>(\$ 8,307,090)</u>
Total	<u>\$49,573,090</u>	<u>\$19,801,531</u>	<u>(\$29,771,559)</u>

The SCO broke down its audit findings for overstated salaries and benefits by the three individual cost components in its final audit report. The City's reasons for its request to restore the disallowances in Finding 1 are presented in the same order as the three cost components shown above.

Administrative Activities Cost Component

For the Administrative Activities cost component, the City claimed \$2,864,828 in salaries and benefits for the audit period. The SCO determined that \$118,411 is allowable and \$2,746,417 is unallowable. The SCO disallowed the costs because it believed the City claimed reimbursement for unallowable activities. Related unallowable indirect costs totaled \$1,054,878. The total disallowed costs were \$3,801,295.

The City claimed costs for nine activities under this component. The SCO determined that the following two activities are reimbursable:

- **Status:** This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per LAPD staff, the cases are updated for every activity and/or procedural change.
- **Assign:** This activity consists solely of updating the database and noting the case assignment to an investigator for adjudication.

The SCO disallowed all costs claimed for all other activities included in the Administrative Activities component of the claims. The seven activities as defined by the City's Police Department are as follows:

- **Locate:** This activity denotes the time required for the Classifications Unit to read the complaint form and determine the best entity to perform the investigation. After determining which entity will investigate, the form is sent to the Administrative Records Section.
- **Invest:** When the investigation is complete, the case file is sent to the Review and Evaluation Section. This activity consists of updating the database to note this information.
- **IA Review:** This activity consists of the time it takes to update the database for Internal Affairs Group (IAG) review. Per LAPD staff, this activity is similar to Invest, but one IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It is another level of review and another change in status.
- **Appeal:** This activity takes place when the case is going to the Advocate Section, where another file is created and entered into the Advocate Database. Per LAPD staff, the case is in the appeal phase and is no longer being investigated or reviewed. This activity pertains to the procedural process of transferring a case in the Advocate Unit, tracking the appeal process, and tracking where the case is in the process.
- **Note:** This activity consists of distributing copies of the face sheet, which contains the summary of allegations and the names of the involved parties, to concerned parties. This activity occurs in ARS and is based on the time it takes to update the database for the activity.
- **Close Out:** Staff of ARS closes out the case file and documents this activity. This activity is a database update function.

The SCO's audit adjustment is based on their contention that the costs are unallowable because the City claimed reimbursement for activities that are not identified in the parameters and guidelines as reimbursable costs. As mentioned above, the SCO found that only two (2) of the nine (9) administrative activities included in the City's time study were allowable. The SCO determined that seven (7) administrative activities for which time was claimed by the City are not reimbursable because they include a number of administrative steps not covered by the parameters and guidelines and are not necessary to complete the administrative activities associated with each case. The SCO believes the activities are related to managing those case files.

The City finds the SCO has incorrectly interpreted the parameters and guidelines and statement of decision for the POBOR program. Their extremely narrow and limited interpretation has resulted in the disallowance of nearly 95% of the costs. The City does not agree with the SCO's interpretation of what is necessary to comply with the constitutional "due process" activities afforded all government employees and what additional activities are imposed on peace officers by the POBOR mandate. The City asserts that all of the seven activities are necessary for a local agency the size and complexity of the Los Angeles Police Department to carry out the administrative activities associated with the mandate.

Interrogations Cost Component

For the Interrogations cost component, the city claimed \$12,505,518 in salaries and benefits for the audit period. The SCO determined that \$1,216,206 in salaries and benefits is allowable and \$11,289,312 is unallowable. The costs were unallowable

because, according to the SCO, the City claimed reimbursement for unallowable activities. The related unallowable indirect costs totaled \$4,525,705. The total direct and indirect costs for the audit period were \$15,815,017.

The parameters and guidelines for the POBOR program allow the following activities for reimbursement under the Interrogation cost component:

- When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during the off-duty time in accordance with regular department procedures.
- Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers.
- Tape recording the interrogation when the peace officers employee records the interrogation.
- Providing the peace officer employee with access to the recording prior to any further investigation at a subsequent, or if any further proceedings are contemplated.
- 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.

The City claimed the following 15 activities under the cost component of Interrogations:

- Admin Task (Administrative Task)
- Call Out
- CO Contact (Commanding Officer Contact)
- Evidence Collect
- Interview Person
- Interview Telephone
- Kickback Editing
- Meet/Brief/Notify
- Non-Evidence Task
- Paraphrasing
- Prep of Interview
- Report Formatting
- Telephone Contact
- Travel
- VI Computer Task

The SCO determined that the activities above are unallowable because they relate to the investigation process. In explaining its position in its final audit report, the SCO referenced the CSM's final staff analysis. The SCO stated: "In reference to compensation and timing of the interrogation pursuant to Government Code section 3303,

subdivision (a), the CSM final staff analysis to the adopted parameters and guidelines states:

It does not require local agencies to investigate an allegation, prepare for 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.

In addition, the amended parameters and guidelines (section VIC.-Interrogations) state that the Investigative activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses are not reimbursable.

The City disagrees with the State Controller's interpretation of the primary eligible activities of the Interrogation component. The City asserts the Parameters and Guidelines, as amended by the CSM based on the Controller's request at its March 28, 2008 hearing, do not accurately reflect the original Statement of Decision which found that eligible costs included: "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." The Controller has limited reimbursement to only officers being compensated for overtime. The City believes the costs for conducting interrogations during regular work time is reimbursable, as is preparation for those interrogations.

The City's position is based on the SCO's interpretation of the POBOR Parameters and Guidelines used when auditing the claims. That interpretation is not consistent with the Statement of Decision. The Statement of Decision is given deference when there is a discrepancy between the finding of a judicial body (CSM) and the documents that arise from that finding.

The Commission, in 1999, addressed the various POBOR test claim statutes which provide safeguards and protections of peace officers that are subject of investigation or discipline. Of primary concern is whether, or to what extent, these safeguards or protections were more expansive than those already in existence through statute, case law and the Constitution. As evidenced in the SOD, the Commission clearly made sure it separated out the pre-existing due process rights and to delineate the scope and extent of those state mandated activities. The SOD stated:

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 the 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 this City, two-thirds of the police force works hours that are not consistent with the work hours of the Investigators in the Internal Affairs section. Even in smaller departments without such a section, hours conflict if command staff assigned to investigate works a shift different than the employees investigated. Payment of overtime occurs when 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 not 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. (See pages 12 and 13 of the SOD).

On November 30, 1999, the CSM adopted its SOD that the test claim legislation constitutes a partial reimbursable state mandated program. The City re-examined the statement of decision and noted that the SCO is taking the language in their response out of context. The language cited by the City is found in the SOD 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 payments of overtime to the investigated employee and, thus imposes reimbursable state mandated activities. (See page 12 and 13 of the SOD).

The use of the conjunctive “and” and the plural “requirements” refers to the fact that the Commission found that both costs of conducting the interrogation during on-duty hours and the costs of paying overtime for off-duty time are reimburseable activities of the mandate. Based on the above, the City believes it properly claimed the costs of conducting the interrogation while the officer was on duty and those costs for compensating officers when the interrogation was performed during off-duty hours.

Adverse Comment Claim Component

The City claimed \$20,278,116 in salaries and benefits for the Adverse Comment component in the audit period. The Controller determined that \$12,849,376 is allowable and \$7,428,740 is unallowable. The SCO deemed the costs were unallowable because the City claimed reimbursement for unallowable activities. The related disallowed or unallowable indirect costs were \$2,726,507. The total disallowed costs contested by the City for this component is \$10,115,247.

The City identified 16 activities in its time study under this cost component. The Controller found that 11 activities were eligible for reimbursement and five were not. The City appreciates the fact the Controller did find the majority of the activities were reimbursable. Once again, the disagreement between the City and the SCO is over the interpretation of the parameters and guidelines and original statement of decision. The

Controller commented the five disallowed activities are part of the investigative process and therefore, not reimbursable. It is the City's position that most of those activities are necessary to meet the mandated activities necessary to comply with the Adverse Comment requirements and therefore should be reimbursable. The activities which the SCO disallowed which City believes are eligible for reimbursement are as follows:

The five activities for which the City claimed costs that were disallowed by the State Controller's office are as follows:


- **Preliminary:** This activity involves investigating the circumstances surrounding the adverse comment.
- **Collect:** This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the Area where the complaint was taken. This activity can include report writing, interviews, or any activity in which information is gathered for the Police Department's complaint form.
- **Area Invest:** This activity consists of the time spent by Area staff to investigate the complaint. This activity occurs after the preliminary investigation.
- **Inspect:** This activity occurs when the assigned Advocate reviews the investigation for status and thoroughness.
- **RE Invest:** This activity involves the time needed to conduct any additional investigations.

The SCO pointed out that the amended parameters and guidelines (section IV.D.—Adverse Comment) state that —investigating a complaint, interviewing a complainant, and preparing a complaint investigation report are not reimbursable activities. As is the case with the other two claim components, Interrogations and Administrative Activities, the parameters and guidelines are not consistent with the mandate requirements and the original statement of decision.

CONCLUSION

Based on the arguments presented above, the City requests that the Commission direct the SCO to recalculate the eligible costs to include the \$21,134,806 in direct salary and benefit costs and \$8,307,090 in related indirect costs for the three cost components and award the City the corrected claim amount of \$29,441,896.

Respectfully submitted,



Laura Luna
Commanding Officer
Fiscal Operations Division
Los Angeles Police Department

Date: 9/27/12

EXHIBIT I

DOCUMENTARY

EVIDENCE

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

PARAMETERS AND GUIDELINES ON:

Government Code Sections 3301, 3303, 3304, 3305, and 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 (CSM 4499)

Directed by Government Code Section 3313, Statutes 2005, Chapter 72, Section 6 (Assem. Bill (AB) No. 138), Effective July 19, 2005.

Case Nos.: 05-RL-4499-01 and 06-PGA-06

Peace Officer Procedural Bill of Rights

AMENDED PARAMETERS AND GUIDELINES PURSUANT TO GOVERNMENT CODE SECTION 17557; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 6

(Amended on March 28, 2008)

AMENDED IN PART PURSUANT TO DEPARTMENT OF FINANCE V. COMMISSION ON STATE MANDATES (2009) 170 CAL.APP.4TH 1355; JUDGMENT AND WRIT ISSUED MAY 8, 2009, BY THE SACRAMENTO COUNTY SUPERIOR COURT, CASE NO. 07CS00079

(Amended on July 31, 2009)

AMENDED PARAMETERS AND GUIDELINES

The attached Amended Parameters and Guidelines of the Commission on State Mandates are hereby adopted in the above-entitled matter.

PAULA HIGASHI, Executive Director

Dated: August 4, 2009

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006
Amended: March 28, 2008
Amended: July 31, 2009

AMENDED 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

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

06-PGA-06

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

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

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

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

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

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

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

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

The Commission 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 for counties, cities, school districts, and

special districts identified in Government Code section 3301 that employ peace officers, 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.

On February 6, 2009, the Third District Court of Appeal, in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1357, determined that POBOR is not a reimbursable mandate as to school districts and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties.

On May 8, 2009, the Sacramento County Superior Court issued a judgment and writ in Case No. 07CS00079, pursuant to the Third District Court of Appeal’s decision in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, requiring the Commission to:

- a. Set aside the portion of its reconsideration decision in “Case No. 05-RL-4499-01 Peace Officer Procedural Bill of Rights” (reconsideration decision) that found that the Peace Officer Procedural Bill of Rights program constitutes a reimbursable state-mandated program for school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties;
- b. Issue a new decision denying the portion of the reconsideration decision approving reimbursement for school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties; and

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.

- c. Amend the parameters and guidelines consistent with this judgment.

This judgment does not affect cities, counties, or special police protection districts named in Government Code section 53060.7, which wholly supplant the law enforcement functions of the County within their jurisdiction.

Accordingly, on July 31, 2009, the Commission amended the decision to deny reimbursement to school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, and special police protection districts named in Government Code section 53060.7 that wholly supplant the law enforcement functions of the county within their jurisdiction are eligible claimants.

School districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties are not eligible claimants entitled to reimbursement.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities and reasonable reimbursement methodology in this parameters and guidelines amendment begins on July 1, 2006.

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

1. A local agency may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

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

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

IV. REIMBURSABLE ACTIVITIES

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

For each eligible claimant, the following activities are reimbursable:

A. Administrative Activities (On-going Activities)

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

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

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

B. Administrative Appeal

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

The following activities and costs are reimbursable:

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

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

The following activities are **not** reimbursable:

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

The following activities and costs are reimbursable:

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

The following activities are **not** reimbursable:

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

C. Interrogations

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

⁴ Interrogations of reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff

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).)

Preparation and review of overtime compensation requests are reimbursable.

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

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

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

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

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a. The further proceeding is not a disciplinary action;
 - b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty

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.)

interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);

- c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

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

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

The following activities are **not** reimbursable:

1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
2. Investigation activities, including assigning an investigator to the case, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses.

3. Preparing for the interrogation, reviewing and preparing interrogation questions, conducting the interrogation, and reviewing the responses given by the officer and/or witness during the interrogation.
4. Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

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

Counties

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

Cities and Special Police Protection Districts

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

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.)

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

The following adverse comment activities are reimbursable:

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

The following activities are **not** reimbursable:

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

V. CLAIM PREPARATION AND SUBMISSION

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

A. Reasonable Reimbursement Methodology

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

1. Definition

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

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

2. Formula

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

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

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

B. ACTUAL COST CLAIMS

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

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

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

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

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

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

1. Direct Cost Reporting

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

a. Salaries and Benefits

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

b. 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.

c. 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.

d. 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.

e. 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 B. 1. a. Salaries and Benefits, for each applicable reimbursable activity.

f. 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 B.1.a, Salaries and Benefits, and B.1.b, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element B.1.c, Contracted Services.

2. Indirect Cost Rates

a. 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 2 CFR Part 225 (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 2 CFR Part 225 (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225 (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:

- i. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (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
- ii The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (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.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the application of a reasonable reimbursement methodology

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

must also be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM 4499) and the Statement of Decision on Reconsideration (05-RL-4499-01) are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim, and in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355. The administrative record, including the Statement of Decision and the Statement of Decision on Reconsideration, is on file with the Commission.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR
STATEMENT OF DECISION ON:

Government Code Sections 3300 through 3310

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 (CSM 4499)

Directed by Government Code Section 3313,
Statutes 2005, chapter 72, section 6
(Assem. Bill (AB) No. 138),
Effective July 19, 2005.

Case No.: 05-RL-4499-01

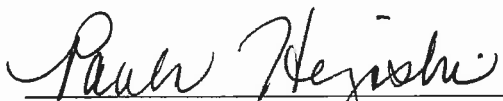
Peace Officer Procedural Bill of Rights

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7


(Adopted on April 26, 2006)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby
adopted in the above-entitled matter.



PAULA HIGASHI, Executive Director



Date

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR
STATEMENT OF DECISION ON:

Government Code Sections 3300 through 3310

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;
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Directed by Government Code Section 3313,
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Peace Officer Procedural Bill of Rights

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on April 26, 2006)

STATEMENT OF DECISION

The Commission on State Mandates ("Commission") heard and decided this test claim during a regularly scheduled hearing on April 26, 2006. Pam Stone, Dee Contreras, and Ed Takach appeared for the City of Sacramento. Lt. Dave McGill appeared for the Los Angeles Police Department. Susan Geanacou appeared for the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve the test claim at the hearing by a vote of 5 to 1.

Summary of Findings

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.

In 1999, the Commission approved the test claim and adopted the original Statement of Decision. The Commission found that certain procedural requirements under POBOR were rights already provided to public employees under the due process clause of the

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

On review of this claim pursuant to Government Code section 3313, the Commission finds 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 finds 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 clause¹ 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).

BACKGROUND

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. Government Code section 3313 states the following:

In the 2005-06 fiscal year, the Commission on State Mandates shall review its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim and make any modifications necessary to this decision 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. If the Commission on State Mandates revises its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim, the revised decision shall apply to local government Peace Office Procedural Bill of Rights activities occurring after the date the revised decision is adopted.

Commission’s Decision on *Peace Officer Procedural Bill of Rights* (CSM 4499)

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

¹ 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.

discipline. Generally, POBOR prescribes certain 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 is taken against them, or they are denied promotion on grounds other than merit.²

Legislative intent for POBOR is expressly provided in Government Code section 3301 as follows:

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, within the State of California.

POBOR applies to all employees classified as “peace officers” under specified provisions of the Penal Code, including those peace officers employed by counties, cities, special districts and school districts.³

In 1995, the City of Sacramento filed a test claim alleging that POBOR, as it existed from 1976 until 1990, constituted a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.⁴ In 1999, the Commission approved the test claim and adopted a Statement of Decision.⁵ 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

² See California Supreme Court’s summary of the legislation in *Baggett v. Gates* (1982) 32 Cal.3d 128, 135.

³ 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.”

⁴ The POBOR Act has been subsequently amended by the Legislature. (See Stats. 1994, ch. 1259; Stats. 1997, ch. 148; Stats. 1998, ch. 263; Stats. 1998, ch. 786; Stats. 1999, ch. 338; Stats. 2000, ch. 209; Stats. 2002, ch. 1156; Stats. 2003, ch. 876; Stats. 2004, ch. 405; and Stats. 2005, ch. 22.) These subsequent amendments are outside the scope of the Commission’s decision in POBOR (CSM 4499), and therefore are *not* analyzed to determine whether they impose reimbursable state-mandated activities within the meaning of article XIII B, section 6.

⁵ Administrative Record, page 859.

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.⁶

On March 29, 2001, the Commission adopted a statewide cost estimate covering fiscal years 1994-1995 through 2001-2002 in the amount of \$152,506,000.⁷

Audit by the Bureau of State Audits

The Legislative Analyst's Office (LAO), in its Analysis of the 2002-2003 Budget Bill, reviewed a sample of POBOR reimbursement claims and found that the annual state costs associated with the program was likely to be two to three times higher than the amount projected in the statewide cost estimate and significantly higher than what the Legislature initially expected. LAO projected costs in the range of \$50 to \$75 million annually.

⁶ Administrative Record, page 1273.

⁷ Administrative Record, page 1309.

LAO also found a wide variation in the costs claimed by local governments. Thus, LAO recommended that the Legislature refer the POBOR program to the Joint Legislative Audit Committee for review, possible state audit, and possible revisions to the parameters and guidelines.

In March 2003, the Joint Legislative Audit Committee authorized the Bureau of State Audits to conduct an audit of the process used by the Commission to develop statewide cost estimates and to establish parameters and guidelines for the claims related to POBOR.

On October 15, 2003, the Bureau of State Audits issued its audit report, finding that reimbursement claims were significantly higher than anticipated and that some agencies claimed reimbursement for questionable activities.⁸ While the Bureau of State Audits recommended the Commission make changes to the overall mandates process, it did not recommend the Commission make any changes to the parameters and guidelines for the POBOR program. The Commission implemented all of the Bureau's recommendations.

On July 19, 2005, the Legislature enacted Government Code section 3313 (Stats. 2005, ch. 72, § 6 (AB 138)) and directed the Commission to "review" the Statement of Decision in POBOR.

Comments Filed Before the Issuance of the Draft Staff Analysis by the City and County of Los Angeles

On October 19, 2005, Commission staff requested comments from interested parties, affected state agencies, and interested persons on the Legislature's directive to "review" the POBOR program. Comments were received from the City of Los Angeles and the County of Los Angeles. The City and County both contend that the Commission properly found that POBOR constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. The County further argues that, under the California Supreme Court decision in *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, reimbursement must be expanded to include all activities required under the test claim statutes including those procedures required by the federal due process clause. The County of Los Angeles also proposes that the Commission adopt a reasonable reimbursement methodology in the parameters and guidelines to reimburse these claims.

Comments Filed on the Draft Staff Analysis

On February 24, 2006, Commission staff issued the draft staff analysis and requested comments on the draft. The Commission received responses from the following parties:

City of Sacramento

The City of Sacramento argues the following:

- Prior law does not require due process protections for employees receiving short-term suspensions, reclassifications, or reprimands. Therefore, the administrative appeal required by the test claim legislation constitutes a new program or higher

⁸ Administrative Record, page 1407 et seq.

level of service when an officer receives a short-term suspension, reclassification, or reprimand.

- Not every termination of a police chief warrants a liberty interest hearing required under prior law. The decision of the Commission should distinguish between those situations where there is a valid right to a liberty interest hearing under principles of due process, from the remaining situations where a police chief is terminated.
- The decision of the Commission should reflect “the onerous requirements imposed when interrogations are handled under POBOR.”
- All activities required when an officer receives an adverse comment are reimbursable.

County of Alameda

The County of Alameda states that interrogation of a sworn officer under POBOR is difficult and requires preparation. The County alleges that ten hours of investigation must be conducted before an interview that might take thirty minutes.

County of Los Angeles

The County of Los Angeles contends that investigation is a reimbursable state-mandated activity. The County also argues that, pursuant to the *San Diego Unified School Dist.* case, all due process activities are reimbursable.

County of Orange

The County of Orange believes the staff analysis “does not fully comprehend or account for the [investigation] requirements of interrogation governed by Government Code section 3303.” The County contends that the requirements of law enforcement agencies to investigate complaints have correspondingly increased under POBOR. When a complaint is received, the County argues that “every department is called upon to conduct very detailed investigations when allegations of serious misconduct occur. These investigations can vary in scope and depth from abuses of authority, the use of deadly force, excessive force where injuries may be significant, serious property damage, and criminal behavior.” The County also contends that the investigation involves the subject officer and other officer witnesses.

Department of Finance

The Department of Finance contends that the *San Diego Unified School Dist.* case does not support the finding that the test claim legislation constitutes a reimbursable state-mandated program for school districts. Finance acknowledges the language in *San Diego Unified School Dist.* declining to extend the *City of Merced* decision to preclude reimbursement whenever any entity makes a discretionary decision that triggers mandated costs. Finance argues, however, that the Supreme Court’s findings are not applicable to school districts since there is no requirement in law for school districts to form a police department. Finance states the following:

. . . there is no requirement in law for these districts to form a police department and safe schools can be maintained without the need to hire

police officers as is evidenced by the many school districts that do not have police departments. The fact that the Legislature has declared it necessary for POBOR to apply to all public safety officers is not the same as requiring their hiring in the first place. School districts could, indeed, control or even avoid the extra cost of the POBOR legislation by not forming a police department at all, which is materially different from fire protection services that must be provided by fire protection districts. POBOR activities that might be claimed by school districts are, instead, analogous to non-reimbursable activities in the *Department of Finance v. Commission on State Mandates [Kern High School Dist.]* case that flowed from an underlying exercise of discretion and those in past Commission decisions that denied reimbursement to school districts for other peace officer activities.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁹ recognizes the state constitutional restrictions on the powers of local government to tax and spend.¹⁰ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”¹¹ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.¹² In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.¹³

⁹ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: “(a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

¹⁰ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

¹¹ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

¹² *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹³ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.¹⁴ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.¹⁵ A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”¹⁶

Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹⁷

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹⁸ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁹

I. Commission Jurisdiction and Period of Reimbursement for Decision on Reconsideration

It is a well-settled issue of law that administrative agencies, such as the Commission, are entities of limited jurisdiction. Administrative agencies have only the powers that have been conferred on them, expressly or by implication, by statute or constitution. The Commission’s jurisdiction in this case is based solely on Government Code section 3313. Absent Government Code section 3313, the Commission would have no jurisdiction to review and reconsider its decision on POBOR since the decision was adopted and issued well over 30 days ago.²⁰

¹⁴ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.)

¹⁵ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

¹⁶ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

¹⁷ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

¹⁸ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹⁹ *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

²⁰ Government Code section 17559.

Thus, the Commission must act within the jurisdiction granted by Government Code section 3313, and may not substitute its judgment regarding the scope of its jurisdiction on reconsideration for that of the Legislature.²¹ Since an action by the Commission is void if its action is in excess of the powers conferred by statute, the Commission must narrowly construe the provisions of Government Code section 3313.

Government Code section 3313 provides:

In the 2005-06 fiscal year, the Commission on State Mandates shall review its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim and make any modifications necessary to this decision *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.* If the Commission on State Mandates revises its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim, the revised decision shall apply to local government Peace Office Procedural Bill of Rights activities occurring after the date the revised decision is adopted. (Emphasis added.)

The Commission's jurisdiction on review is limited by Government Code section 3313, to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in *San Diego Unified School Dist.* ... and other applicable court decisions."

In addition, Government Code section 3313 states that "the revised decision shall apply to local government Peace Officer Procedural Bill of Rights activities *occurring after the date the revised decision is adopted.*" Thus, the Commission finds that the decision adopted by the Commission on this reconsideration or "review" of POBOR applies to costs incurred and claimed for the 2006-2007 fiscal year.

II. Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?

In 1999, the Commission found that the test claim legislation mandates law enforcement agencies to take specified procedural steps when investigating or disciplining a peace officer employee.²² The Commission found that Government Code section 3304 mandates, under specified circumstances, that "no punitive action ['any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment'], 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."

The Commission also found that the following activities are mandated by Government Code section 3303 when the employer wants to interrogate an officer:

²¹ *Cal. State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 346-347.

²² Original Statement of Decision (AR, p. 862).

- 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).)
- 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).)
- Providing the peace officer employee with access to a tape recording of his or her interrogation prior to any further interrogation at a subsequent time, as specified. (Gov. Code, § 3303, subd. (g).)
- Under specified circumstances, 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 when requested by the officer. (Gov. Code, § 3303, subd. (g).)

Finally, Government Code sections 3305 and 3306 provide that no peace officer shall have any adverse comment entered into the officer's personnel file without 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 into the personnel file. The Commission found that Government Code sections 3305 and 3306 impose the following requirements on employers before an adverse comment is placed in an officer's personnel file:

- To provide notice of the adverse comment to the officer.
- To provide an opportunity to review and sign the adverse comment.
- To provide an opportunity to respond to the adverse comment within 30 days.
- To note on the document that the peace officer refused to sign the adverse comment and to obtain the peace officer's signature or initials under such circumstances.

POBOR, by the terms set forth in Government Code section 3301, expressly applies to counties, cities, school districts, and special districts and the Commission approved the test claim for these local entities. Government Code section 3301 states the following: "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, 830.4, and 830.5 of the Penal Code." The legislation, however, does not apply to reserve or recruit officers,²³ coroners, or railroad police officers commissioned by the Governor.

Government Code section 3313 requires the Commission to review these findings to clarify whether the subject legislation imposes a mandate consistent with the California Supreme Court Decision in *San Diego Unified School Dist.* and other applicable court decisions.

²³ *Burden v. Snowden* (1992) 2 Cal.4th 556, 569.

Generally, in order for test claim legislation to impose a reimbursable state-mandated program, the statutory language must mandate an activity or task on local governmental entities. If the statutory language does not impose a mandate, then article XIII B, section 6 of the California Constitution is not triggered and reimbursement is not required.

In the present case, although the procedural rights and protections afforded a peace officer under POBOR are expressly required by statute, the required activities are not triggered until the employing agency makes certain local decisions. For example, in the case of a city or county, agencies that are required by the Constitution to employ peace officers,²⁴ the POBOR activities are not triggered until the city or county 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.²⁵

In the case of a school district or special district, the POBOR requirements are not triggered until the school district or special district (1) decides to exercise the statutory authority to employ peace officers, and (2) decides to interrogate the officer, take punitive action against the officer, or place an adverse comment in the officer's personnel file.

After the Commission issued its decision in this case, two California Supreme Court decisions were decided that address the "mandate" issue; *Kern High School Dist.* and *San Diego Unified School Dist.*²⁶ Thus, based on the court's ruling in these cases, the issue is whether the test claim legislation constitutes a state-mandated program within the meaning of article XIII B, section 6 in light of the local decisions that trigger the POBOR requirements.

As described below, the Legislature expressly declared its intent that the POBOR legislation is a matter of statewide concern and was designed to assure that effective police protection services are provided to all people of the state. The California Supreme Court found that POBOR protects the health, safety, and welfare of the citizens. Thus,

²⁴ Article XI of the California Constitution provides for the formation of cities and counties. Section 1, Counties, states that the Legislature shall provide for an elected county sheriff. Section 5, City charter provision, specifies that city charters are to provide for the "government of the city police force."

²⁵ See *Baggett v. Gates* (1982) 32 Cal.3d 128, 137-140, where the California Supreme Court determined 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, nor does it (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. But the court found that POBOR impinges on the city's implied power to determine the *manner* in which an employee can be disciplined.

²⁶ *Kern High School Dist.*, *supra*, 30 Cal.4th 727; *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859.

based on the facts of this case, the Commission finds that the Supreme Court's decision in *San Diego Unified School Dist.* supports the Commission's original finding that the test claim legislation constitutes a state-mandated program for cities, counties, school districts, and special districts as described below.

A. POBOR constitutes a state-mandated program even though a local decision is first made to interrogate the officer, take punitive action against the officer, or place an adverse comment in the officer's personnel file.

The procedural rights and protections afforded a peace officer under POBOR are required by statute. The rights are not triggered, however, until the employing agency decides to interrogate an officer, take punitive action against the officer, or place an adverse comment in an officer's personnel file. These initial decisions are not mandated by the state, but are governed by local policy, ordinance, city charter, or a memorandum of understanding.

Nevertheless, based on findings made by the California Supreme Court regarding the POBOR legislation and in *San Diego Unified School Dist.*, the Commission finds that the test claim legislation constitutes a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

After the Commission issued its Statement of Decision in this case, the California Supreme Court decided the *Kern High School Dist.* case and considered the meaning of the term "state mandate" as it appears in article XIII B, section 6 of the California Constitution.²⁷ In *Kern High School Dist.*, school districts requested reimbursement for notice and agenda costs for meetings of their school site councils and advisory bodies. These bodies were established as a condition of various education-related programs that were funded by the state and federal government.

When analyzing the term "state mandate," the court reviewed the ballot materials for article XIII B, which provided that "a state mandate comprises something that a local government entity is required or forced to do."²⁸ The ballot summary by the Legislative Analyst further defined "state mandates" as "requirements imposed on local governments by legislation or executive orders."²⁹

The court also reviewed and affirmed the holding of *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, determining that, when analyzing state-mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.³⁰ The court stated the following:

In *City of Merced*, the city was under no legal compulsion to resort to eminent domain-but when it elected to employ that means of acquiring property, its obligation to compensate for lost business goodwill was not a

²⁷ *Kern High School Dist.*, *supra*, 30 Cal.4th 727.

²⁸ *Id.* at page 737.

²⁹ *Ibid.*

³⁰ *Id.* at page 743.

reimbursable state mandate, because the city was not required to employ eminent domain in the first place. Here as well, if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the district's obligation to comply with the notice and agenda requirements related to that program does not constitute a reimbursable state mandate. (Emphasis in original.)³¹

Thus, the Supreme Court held as follows:

[W]e reject claimants' assertion that they have been legally compelled to incur notice and agenda costs, and hence are entitled to reimbursement from the state, based merely upon the circumstance that notice and agenda provisions are mandatory elements of education-related programs in which claimants have participated, *without regard to whether claimant's participation in the underlying program is voluntary or compelled*. [Emphasis added.]³²

Based on the plain language of the statutes creating the underlying education programs in *Kern High School Dist.*, the court determined that school districts were not legally compelled to participate in eight of the nine underlying programs.³³

The school districts in *Kern High School Dist.*, however, urged the court to define "state mandate" broadly to include situations where participation in the program is coerced as a result of severe penalties that would be imposed for noncompliance. The court previously applied such a broad construction to the definition of a federal mandate in the case of *City of Sacramento v. State* (1990) 50 Cal.3d 51, 74, where the state's failure to comply with federal legislation that extended mandatory coverage under the state's unemployment insurance law would result in California businesses facing "a new and serious penalty – full, double unemployment taxation by both state and federal governments."³⁴ Although the court in *Kern High School Dist.* declined to apply the reasoning in *City of Sacramento* that a state mandate may be found in the absence of strict legal compulsion on the facts before it in *Kern*, after reflecting on the purpose of article XIII B, section 6 – to preclude the state from shifting financial responsibilities onto local agencies that have limited tax revenue– the court stated:

In light of that purpose, we do not foreclose the possibility that a reimbursable state mandate under article XIII B, section 6, properly might be found in some circumstances in which a local entity is not legally compelled to participate in a program that requires it to expend additional funds.³⁵

³¹ *Ibid.*

³² *Id.* at page 731.

³³ *Id.* at pages 744-745.

³⁴ *City of Sacramento, supra*, 50 Cal.3d 51, 74.

³⁵ *Kern High School Dist., supra*, 30 Cal.4th 727, 752.

Thus, the court in *Kern* recognized that there could be a case, based on its facts, where reimbursement would be required under article XIII B, section 6 in circumstances where the local entity was not legally compelled to participate in a program.

One year later, the Supreme Court revisited the “mandate” issue in *San Diego Unified School Dist.*, a case that addressed a challenge to a Commission decision involving a school district’s expulsion of a student. The school district acknowledged that under specified circumstances, the statutory scheme at issue in the case gave school districts discretion to expel a student. The district nevertheless argued that it was mandated to incur the costs associated with the due process hearing required by the test claim legislation when a student is expelled. The district argued that “although any particular expulsion recommendation may be discretionary, as a practical matter it is inevitable that some school expulsions will occur in the administration of any public school program” and, thus, the ruling in *City of Merced* should not apply.³⁶

In *San Diego Unified School Dist.*, the Supreme Court did not overrule the *Kern* or *City of Merced* cases, but stated that “[u]pon reflection, we agree with the District and amici curiae that there is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514, whenever an entity makes an initial discretionary decision that in turn triggers mandated costs.”³⁷ The court explained as follows:

Indeed, it would appear that under a strict application of the language of *City of Merced*, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 of the state Constitution and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example, in *Carmel Valley* [citation omitted] an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing and equipment. [Citation omitted.] the court in *Carmel Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ – and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced* [citation omitted], such costs would not be reimbursable for the simple reason that the local agency’s decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence

³⁶ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 887.

³⁷ *Id.* at page 887.

we are reluctant to endorse, in this case, an application of the rule of *City of Merced* that might lead to such result.³⁸

Ultimately, however, the court did not resolve the issue regarding the application of the *City of Merced* case to the discretionary expulsions, and resolved the case on alternative grounds.³⁹

In the present case, the purpose of POBOR, as stated in Government Code section 3301, is to assure that stable employment relations are continued throughout the state and to further assure that effective law enforcement services are provided to all people of the state. The Legislature declared POBOR a matter of statewide concern.

In 1982, the California Supreme Court addressed the POBOR legislation in *Baggett v. Gates*.⁴⁰ In *Baggett*, the City of Los Angeles received information that certain peace officer employees were engaging in misconduct during work hours. The city interrogated the officers and reassigned them to lower paying positions (a punitive action under POBOR). The employees requested an administrative appeal pursuant to the POBOR legislation and the city denied the request, arguing that charter cities cannot be constitutionally bound by POBOR. The court acknowledged that the home rule provision of the Constitution gives charter cities the power to make and enforce all ordinances and regulations, subject only to the restrictions and limitations provided in the city charter. Nevertheless, the court found that the City of Los Angeles was required by the POBOR legislation to provide the opportunity for an administrative appeal to the officers.⁴¹ In reaching its conclusion, the court relied, in part, on the express language of legislative intent in Government Code section 3301 that the POBOR legislation is a “matter of statewide concern.”⁴²

The court in *Baggett* also concluded that the consequences of a breakdown in employment relations between peace officers and their employers would create a clear and present threat to the health, safety, and welfare of the citizens of the city, which would extend far beyond local boundaries.

Finally, it can hardly be disputed that the maintenance of stable employment relations between police officers and their employers is a matter of statewide concern. The consequences of a breakdown in such relations are not confined to a city’s borders. These employees provide an essential service. Its absence would create a clear and present threat not only to the health, safety, and welfare of the citizens of the city, but also to the hundreds, if not thousands, of nonresidents who daily visit there. Its effect would also be felt by the many nonresident owners of property and businesses located within the city’s borders. Our society is no longer a

³⁸ *Id.* at pages 887-888.

³⁹ *Id.* at page 888.

⁴⁰ *Baggett v. Gates* (1982) 32 Cal.3d 128.

⁴¹ *Id.* at page 141.

⁴² *Id.* at page 136.

collection of insular local communities. Communities today are highly interdependent. The inevitable result is that labor unrest and strikes produce consequences which extend far beyond local boundaries.⁴³

Thus, the court found that “the total effect of the POBOR legislation is not to deprive local governments of the right to manage and control their police departments but to secure basic rights and protections to a segment of public employees who were thought unable to secure them for themselves.”⁴⁴

In 1990, the Supreme Court revisited the POBOR legislation in *Pasadena Police Officers Assn. v. City of Pasadena (Pasadena)*.⁴⁵ The *Pasadena* case addressed the POBOR requirement in Government Code section 3303 to require the employer to provide an officer subject to an interrogation with any reports or complaints made by investigators. In the language quoted below, the court described the POBOR legislation and recognized that the public has a high expectation that peace officers are to be held above suspicion of violation of the laws they are sworn to enforce. Thus, in order to maintain the public’s confidence, “a law enforcement agency *must* promptly, thoroughly, and fairly investigate allegations of officer misconduct ... [and] institute disciplinary proceedings.” (Emphasis added.)

Courts have long recognized that, while the off-duty conduct of employees is generally of no legal consequence to their employers, the public expects peace officers to be “above suspicion of violation of the very laws they are sworn ... to enforce.” [Citations omitted.] Historically, peace officers have been held to a higher standard than other public employees, in part because they alone are the “guardians of peace and security of the community, and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust reposed in them.” [Citation omitted.] To maintain the public’s confidence in its police force, a law enforcement agency must promptly, thoroughly, and fairly investigate allegations of officer misconduct; if warranted, it must institute disciplinary proceedings.⁴⁶

Under a strict application of the *City of Merced* case, the requirements of the POBOR legislation would not constitute a state-mandated program within the meaning of article XIII B, section 6 “for the simple reason” that the local entity’s ability to decide who to discipline and when “could control or perhaps even avoid the extra costs” of the POBOR legislation.⁴⁷ But a local entity does not decide who to investigate or discipline based on the costs incurred to the entity. The decision is made, as indicated by the Supreme Court, to maintain the public’s confidence in its police force and to protect the health, safety,

⁴³ *Id.* at page 139-140.

⁴⁴ *Id.* at page 140.

⁴⁵ *Pasadena Police Officers Assn. v. City of Pasadena* (1990) 51 Cal.3d 564.

⁴⁶ *Id.* at page 571-572.

⁴⁷ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 887-888.

and welfare of its citizens. Thus, as indicated by the Supreme Court in *San Diego Unified School Dist.*, a finding that the POBOR legislation does not constitute a mandated program would conflict with past decisions like *Carmel Valley*, where the court found a mandated program for providing protective clothing and safety equipment to firefighters and made it clear that “[p]olice and fire protection are two of the most essential and basic functions of local government.”⁴⁸ Moreover, the POBOR legislation implements a state policy to maintain stable employment relations between police officers and their employers to “assure that effective services are provided to all people of the state.” POBOR, therefore, carries out the governmental function of providing a service to the public, and imposes unique requirements on local agencies to implement the state policy.⁴⁹ Thus, a finding that the test claim legislation does not impose a state-mandated program contravenes the purpose of article XIII B, section 6 “to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill-equipped’ to assume increased financial responsibilities” due to the tax and spend provisions of articles XIII A and XIII B.⁵⁰

Accordingly, even though local decisions are first made to interrogate an officer, take punitive action against the officer, or to place an adverse comment in an officer’s personnel file, the Commission finds, based on *San Diego Unified School Dist.* and the facts presented in this case, that POBOR constitutes a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

B. POBOR constitutes a state-mandated program for school districts and for special districts identified in Government Code section 3301 that employ peace officers.

Government Code section 3301, the statute that identifies the peace officers afforded the rights and protections granted in the POBOR legislation, expressly includes peace officers employed by school districts and community college districts pursuant to Penal Code section 830.32. Penal Code section 830.32 provides that members of a school district and community college district police department appointed pursuant to Education Code sections 39670 and 72330 are peace officers if the primary duty of the officer is the enforcement of law as prescribed by Education Code sections 39670 (renumbered section 38000) and 72330, and the officers have completed an approved course of training prescribed by the Commission on Peace Officer Standards and Training (POST) before exercising the powers of a peace officer.

POBOR also applies to special districts authorized by statute to maintain a police department, including police protection districts, harbor or port police, transit police, peace officers employed by the San Francisco Bay Area Rapid Transit District (BART),

⁴⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 887-888; *Carmel Valley Fire Protection Dist. v. State* (1987) 190 Cal.App.3d 521, 537.

⁴⁹ *San Diego Unified School*, *supra*, 33 Cal.4th at page 874.

⁵⁰ *Id.* at page 888, fn. 23.

peace officers employed by airport districts, peace officers employed by a housing authority, and peace officers employed by fire protection districts.⁵¹

While counties and cities are mandated by the California Constitution to employ peace officers,⁵² school districts and special districts are not expressly required by the state to employ peace officers. School districts and special districts have statutory authority to employ peace officers.

Following the Supreme Court's decision in *Kern High School Dist.*, the Commission denied school district test claims addressing peace officer employees on the ground that school districts are not mandated by state law to have a police department and employ peace officers. In these decisions, the Commission acknowledged the provision in the Constitution (Cal. Const., art. 1, § 28, subd. (c)) that requires K-12 school districts to maintain safe schools. The Commission found, however, that there is no constitutional or statutory requirement to maintain safe schools through school security or a school district police department. Moreover, school districts have governmental immunity under Government Code section 845 and cannot be liable for civil damages for "failure to establish a police department or otherwise to provide police protection service or, if police protection service is provided, for failure to provide sufficient police protection service."⁵³ Comments on Government Code section 845 by the Law Revision Commission state that the immunity was enacted by the Legislature to prevent judges and juries from removing the ultimate decision-making authority regarding police protection from those (local governments) that are politically responsible for making the decision.⁵⁴

⁵¹ Government Code section 3301; Penal Code section 830.1, subdivision (a) ["police officer of a district (including police officers of the San Diego Unified Port District Harbor Police) authorized by statute to maintain a police department"]; Penal Code section 830.31, subdivision (d) ["A housing authority patrol officer employed by the housing authority of a ... district ..."]; Penal Code section 830.33 ["(a) A member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Section 28767.5 of the Public Utilities Code ... (b) Harbor or port police regularly employed and paid ... by a ... district ... (c) Transit police officers or peace officers of a ... district ... (d) Any person regularly employed as an airport law enforcement officer by a ... district ..."]; and Penal Code section 830.37 ["(a) Members of an arson-investigating unit ... of a fire department or fire protection agency of a ... district ... if the primary duty of these peace officers is the detection and apprehension of persons who have violated any fire law or committed insurance fraud ... (b) Members ... regularly paid and employed in that capacity, of a fire department or fire protection agency of a ... district ... if the primary duty of these peace officers ... is the enforcement of law relating to fire prevention or fire suppression."]

⁵² See ante, footnote 21.

⁵³ See *Leger v. Stockton Unified School Dist.* (1988) 202 Cal.App.3d 1448.

⁵⁴ 4 California Law Revision Commission Reports 801 (1963).

Immunity under Government Code section 845 also applies to community college districts and special districts.⁵⁵

Thus, based on the Supreme Court's holding in *Kern High School Dist.*, past decisions of the Commission have determined that local entities, such as school districts, are not entitled to reimbursement for activities required by the state when the activities are triggered by the discretionary local decision to employ peace officers.

This case presents different facts, however. Here, unlike the other cases, the Legislature expressly stated in Government Code section 3301 that POBOR is a matter of statewide concern and found that it was necessary to apply the legislation to all public safety officers, as defined. Government Code section 3301 states the following:

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

Legislative declarations of policy are entitled to great weight by the courts "and it is not the duty or prerogative of the courts to interfere with such legislative finding unless it clearly appears to be erroneous and without reasonable foundation."⁵⁶

Furthermore, in *San Diego Unified School Dist.*, the Supreme Court acknowledged the school district's argument that the due process hearing procedures were mandated when the district exercised its discretion and expelled a student, despite the *City of Merced* and *Kern* cases. The court stated the following:

Indeed, the Court of Appeal below suggested that the present case is distinguishable from *City of Merced* [citation omitted], in light of article I, section 28, subdivision (c), of the state Constitution. That constitutional subdivision, part of Proposition 8 (known as the Victim's Bill of Rights initiative, adopted by the voters at the Primary Election in June 1982), states: "All students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure, and peaceful." The Court of Appeal below concluded: "In light of a school district's constitutional obligation to provide a safe educational environment ..., the incurring [due process] hearing costs ... cannot properly be viewed as a nonreimbursable 'downstream' consequence of a decision to seek to expel a student under

⁵⁵ *Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799; *Hernandez v. Southern California Rapid Transit Dist.* (1983) 142 Cal.App.3d 1063.

⁵⁶ *Paul v. Eggman* (1966) 244 Cal.App.2d 461, 471-472.

Education Code section 48915's discretionary provision for damaging or stealing school or private property, receiving stolen property, engaging in sexual harassment or hate violence, or committing other specified acts of misconduct ... that warrant such expulsion."⁵⁷

In response, the Supreme Court stated that "[u]pon reflection, we agree with the District and amici curiae that there is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514, whenever an entity makes an initial discretionary decision that in turn triggers mandated costs."⁵⁸ The court explained as follows:

Indeed, it would appear that under a strict application of the language of *City of Merced*, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 of the state Constitution and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example, in *Carmel Valley* [citation omitted] an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing and equipment. [Citation omitted.] The court in *Carmel Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ – and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced* [citation omitted], such costs would not be reimbursable for the simple reason that the local agency's decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in this case, an application of the rule of *City of Merced* that might lead to such result.⁵⁹

The Department of Finance contends that the *San Diego Unified School Dist.* case does not support the finding that the test claim legislation constitutes a reimbursable state-mandated program for school districts. Finance acknowledges the language in *San Diego Unified School Dist.* declining to extend the *City of Merced* decision to preclude reimbursement whenever any entity makes a discretionary decision that triggers mandated costs. Finance argues, however, that the Supreme Court's findings are not

⁵⁷ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 887, footnote 22.

⁵⁸ *Id.* at page 887.

⁵⁹ *Id.* at pages 887-888.

applicable to school districts since there is no requirement in law for school districts to form a police department. Finance states the following:

In the *Carmel Valley Fire Protection District* case ((1987) 190 Cal.App.3d 521), unlike the situation here, the fire districts did not have the option to form a fire department and hire firefighters. In fact, the *San Diego Unified School Dist.* case cited *Carmel Valley* to make it clear that “[p]olice and fire protection are two of the most essential and basic functions of local government.” (*San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 887-888, *Carmel Valley Fire Protection Dist.*, *supra*, 190 Cal.App.3d 521, 537). Such is not the case for school districts and community college districts.

As stated above, there is no requirement in law for these districts to form a police department and safe schools can be maintained without the need to hire police officers as is evidenced by the many school districts that do not have police departments. The fact that the Legislature has declared it necessary for POBOR to apply to all public safety officers is not the same as requiring their hiring in the first place. School districts could, indeed, control or even avoid the extra cost of the POBOR legislation by not forming a police department at all, which is materially different from fire protection services that must be provided by fire protection districts. POBOR activities that might be claimed by school districts are, instead, analogous to non-reimbursable activities in the *Department of Finance v. Commission on State Mandates [Kern High School Dist.]* case that flowed from an underlying exercise of discretion and those in past Commission decisions that denied reimbursement to school districts for other peace officer activities.

Finance, in response to the draft staff analysis, makes no comments with respect to special districts that also have the authority, but are not required, to employ peace officers.⁶⁰ At the hearing, however, Finance argued that its comments apply equally to special districts.

The Commission disagrees with the Department of Finance. The fire protection districts in *Carmel Valley* were not mandated by the state to be formed, as asserted by Finance. Fire protection districts are established either by petition of the voters or by a resolution adopted by the legislative body of a county or city within the territory of the proposed district. Once a petition has been certified or a resolution adopted, the local agency

⁶⁰ See, for example, Public Utilities Code section 28767.5, which authorizes BART to employ peace officers:

The district may employ a suitable security force. The employees of the district that are designated by the general manager as security officers shall have the authority and powers conferred by Section 830.9 of the Penal Code upon peace officers. The district shall adhere to the standards for recruitment and training of peace officers established by the Commission on Peace Officer Standards and Training ...

formation commission must approve the formation of the district “with or without amendment, wholly, partially, or conditionally.” A local election is then held and the district is created if a majority of the votes are cast in favor of forming the district.⁶¹ Furthermore, the implication that the phrase “local government” in the *Carmel Valley* case excludes school districts is wrong. “Local government” is specifically defined in article XIII B, section 8 of the Constitution to include school districts and special districts. The definitions in article XIII B, section 8 apply to the mandate reimbursement provisions of section 6. Article XIII B, section 8 states in relevant part the following:

As used in this article and except as otherwise expressly provided herein:

(d) “Local government” means any city, county, city and county, school district, special district, authority, or other political subdivision of or within the state.

Therefore, the arguments raised by the Department of Finance do not resolve the issue. The Supreme Court in *San Diego Unified School Dist.* did not resolve the issue either. Rather, the court stated the following:

In any event, we have determined that we need not address in this case the problems posed by such an application of the rule articulated in *City of Merced*, because this aspect of the present case can be resolved on an alternative basis.⁶²

Thus, the Commission has the difficult task of resolving the issue for purposes of this claim. For the reasons below, the Commission finds that the POBOR legislation constitutes a state-mandated program for school districts and the special districts identified in Government Code section 3301 that employ peace officers.

Under a strict application of the *City of Merced* case, the requirements of the POBOR legislation would not constitute a state-mandated program within the meaning of article XIII B, section 6 for school districts and the special districts that employ peace officers “for the simple reason” that the ability of the school district or special district to decide whether to employ peace officers “could control or perhaps even avoid the extra costs” of the POBOR legislation.⁶³ But here, the Legislature has declared that, as a matter of statewide concern, it is necessary for POBOR to apply to all public safety officers, as defined in the legislation. As previously indicated, the California Supreme Court concluded that the peace officers identified in Government Code section 3301 of the POBOR legislation provide an “essential service” to the public and that the consequences of a breakdown in employment relations between peace officers and their employers would create a clear and present threat to the health, safety, and welfare of the citizens of the state.⁶⁴

⁶¹ Health and Safety Code sections 13815 et seq.

⁶² *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 888.

⁶³ *Ibid.*

⁶⁴ *Baggett*, *supra*, 32 Cal.3d 128, 139-140.

In addition, in 2001, the Supreme Court determined that school districts, apart from education, have an “obligation to protect pupils from other children, and also to protect teachers themselves from violence by the few students whose conduct in recent years has prompted national concern.” The court further held that California fulfills its obligations under the safe schools provision of the Constitution (Cal. Const., art. I, § 28, subd. (c)) by permitting local school districts to establish a police or security department to enforce rules governing student conduct and discipline.⁶⁵ The arguments by the school districts regarding the safe schools provision of the Constitution caused the Supreme Court in *San Diego Unified School Dist.* to question the application of the *City of Merced* case.⁶⁶

The Legislature has also recognized the essential services provided by special district peace officers in Government Code section 53060.7. The special districts identified in that statute (Bear Valley Community Services District, Broadmoor Police Protection District, Kensington Police Protection and Community Services District, Lake Shastina Community Services District, and Stallion Springs Community Services District) “wholly supplant the law enforcement functions of the county within the jurisdiction of that district.”

Thus, as indicated by the Supreme Court in *San Diego Unified School Dist.*, a finding that the POBOR legislation does not constitute a state-mandated program for school districts and special districts identified in Government Code section 3301 would conflict with past decisions like *Carmel Valley*, where the court found a mandated program for providing protective clothing and safety equipment to firefighters and made it clear that “[p]olice and fire protection are two of the most essential and basic functions of local government.”⁶⁷ The constitutional definition of “local government” for purposes of article XIII B, section 6 includes school districts and special districts. (Cal. Const., art. XIII B, § 8.)

Accordingly, the Commission finds that POBOR constitutes a state-mandated program for school districts that employ peace officers. The Commission further finds that POBOR constitutes a state-mandated program for the special districts identified in Government Code section 3301. These districts include police protection districts, harbor or port police, transit police, peace officers employed by airport districts, peace officers employed by a housing authority, and peace officers employed by fire protection districts.

III. Does the test claim legislation constitute a new program or higher level of service and impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

Government Code section 3313 requires the Commission to review its previous findings to clarify whether the test claim legislation constitutes a new program or higher level of service and imposes costs mandated by the state consistent with the California Supreme

⁶⁵ *In re Randy G.* (2001) 26 Cal.4th 556, 562-563.

⁶⁶ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 887, fn. 22.

⁶⁷ *Id.* at pages 887-888; *Carmel Valley Fire Protection Dist. v. State* (1987) 190 Cal.App.3d 521, 537.

Court Decision in *San Diego Unified School Dist.* and other applicable court decisions. The test claim legislation will impose a new program or higher level of service, and costs mandated by the state when it compels a local entity to perform activities not previously required, and results in actual increased costs mandated by the state.⁶⁸ In addition, none of the exceptions to reimbursement found in Government Code section 17556 can apply. The activities found by the Commission to be mandated are analyzed below.

Administrative Appeal

Government Code section 3304, as added by the test claim legislation, provides 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,⁶⁹ 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.⁷⁰

Thus, in transfer 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.⁷¹

In addition, at least one California appellate court determined that employers must extend the right to an administrative appeal under the test claim legislation to peace officers for other actions taken by the employer that result in “disadvantage, harm, loss or hardship” and impact the peace officer’s career.⁷² In *Hopson*, the court found that an officer who received a report in his personnel file by the police chief regarding a shooting in violation of policies and procedures was entitled to an administrative appeal under Government Code section 3304. The court held that the report constituted “punitive action” under the

⁶⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835.

⁶⁹ 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).

⁷⁰ *White v. County of Sacramento* (1982) 31 Cal.3d 676.

⁷¹ *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.

⁷² *Hopson v. City of Los Angeles* (1983) 139 Cal.App.3d 347, 354, relying on *White v. County of Sacramento* (1982) 31 Cal.3d 676, 683.

test claim legislation based on the source of the report, its contents, and its potential impact on the career of the officer.⁷³

Thus, under Government Code section 3304, as it existed when the Statement of Decision was adopted, the employer is required to provide the opportunity for an administrative appeal to permanent, at-will or probationary peace officers for any action leading to the following actions:

- Dismissal.
- Demotion.
- Suspension.
- Reduction in salary.
- Written reprimand.
- Transfer for purposes of punishment.
- Denial of promotion on grounds other than merit.
- Other actions against the employee that results in disadvantage, harm, loss or hardship and impacts the career opportunities of the employee.

The test claim legislation does not specifically set forth the hearing procedures required for the administrative appeal. Rather, the type of administrative appeal is left up to the discretion of each local entity.⁷⁴ The courts have determined, however, that the type of hearing required under Government Code section 3304 must comport with due process standards.^{75, 76}

⁷³ *Id* at p. 353-354.

⁷⁴ *Binkley v. City of Long Beach* (1993) 16 Cal.App.4th 1795, 1806.

⁷⁵ *Doyle v. City of Chino* (1981) 117 Cal.App.3d 673, 684. In addition, the court in *Stanton v. City of West Sacramento* (1991) 226 Cal.App.3d 1438, 1442, held that the employee's due process rights were protected by the administrative appeals process mandated by Government Code section 3304.

⁷⁶ At least two cases have referred to the need for an administrative appeals procedure that would enable the officer to obtain court review pursuant to Code of Civil Procedure section 1094.5. Such a review implies that an evidentiary hearing be held from which a record and findings may be prepared for review by the court. (*Doyle, supra*, 117 Cal.App. 3d 673; *Henneberque, supra*, 147 Cal.App.3d 250. In addition, the California Supreme Court uses the words "administrative appeal" of section 3304 interchangeably with the word "hearing." (*White, supra*, 31 Cal.3d 676.) A hearing before the Chief of Police was found to be appropriate within the meaning of Government Code section 3304 in a case involving a written reprimand since the Chief of Police was not in any way involved in the investigation and the employee and his attorney had an opportunity to present evidence and set forth arguments on the employee's behalf. (*Stanton, supra*, 226 Cal.App.3d 1438, 1443.)

Finally, the courts have been clear that the administrative hearing required by Government Code section 3304 does *not* mandate an investigatory process. “It is an adjudicative process by which the [peace officers] hope to restore their reputations” and where “the reexamination [of the employer’s decision] must be conducted by someone who has not been involved in the initial determination.”⁷⁷

In 1999, the Commission concluded that under certain circumstances, the administrative appeal required by the POBOR legislation was already required to be provided by the due process clause of the United States and California Constitutions when an action by the employer affects an employee’s property interest or liberty interest. A permanent employee with civil service protection, for example, has a property interest in the employment position if the employee is dismissed, demoted, suspended, receives a reduction in salary, or receives a written reprimand. Under these circumstances, the permanent employee is entitled to a due process hearing.⁷⁸

In addition, the due process clause applies when the charges supporting a dismissal of a probationary or at-will employee harms the employee’s reputation and ability to find future employment.⁷⁹ For example, an at-will employee, such as the chief of police, is entitled to a liberty interest hearing (or name-clearing hearing) under the state and federal constitutions when the dismissal is supported by charges of misconduct, mismanagement, and misjudgment – all of which “stigmatize [the employee’s] reputation and impair his ability to take advantage of other employment opportunities in law enforcement administration.”⁸⁰ In *Williams v. Department of Water and Power*, a case cited by the City of Sacramento, the court explained that the right to a liberty interest hearing arises in cases involving moral turpitude. There is no constitutional right to a liberty interest hearing when an at-will employee is removed for incompetence, inability to get along with others, or for political reasons due to a change of administration.

The mere fact of discharge from public employment does not deprive one of a liberty interest hearing. [Citations omitted.] Appellant must show her dismissal was based on charges of misconduct which “stigmatize” her reputation or “seriously impair” her opportunity to earn a living. [Citations omitted.] ... “Nearly any reason assigned for dismissal is likely to be to some extent a negative reflection on an individual’s ability, temperament, or character. [Citation omitted.] But not every dismissal assumes a constitutional magnitude.” [Citation omitted.]

The leading case of *Board of Regents v. Roth* (1972) 408 U.S. 564, 574 [unofficial cite omitted] distinguishes between a stigma of moral turpitude, which infringes the liberty interest, and other charges such as incompetence or inability to get along with coworkers which does not. The Supreme Court recognized that where “a person’s good name,

⁷⁷ *Caloca v. County of San Diego* (2002) 102 Cal.App.4th 433, 443-444 and 447-448.

⁷⁸ See original Statement of Decision (AR, p. 864).

⁷⁹ See original Statement of Decision (AR, pp. 863-866, 870).

⁸⁰ *Binkley v. City of Long Beach* (1993) 16 Cal.App.4th 1795, 1807.

reputation, honor or integrity is at stake” his right to liberty under the Fourteenth Amendment is implicated and deserves constitutional protection. [Citation omitted.] “In the context of *Roth*-type cases, a charge which infringes one’s liberty can be characterized as an accusation or label given the individual by his employer which belittles his worth and dignity as an individual and, as a consequence is likely to have severe repercussions of which primarily affect professional life, and which may well force the individual down one or more notches in the professional hierarchy.” [Citation omitted.]⁸¹

Thus, the Commission found that, when a hearing was required by the due process clause of the state and federal constitutions, the activity of providing the administrative appeal did not constitute new program or higher level of service, or impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).

The Commission found that the administrative appeal constitutes a new program or higher level of service, and imposes costs mandated by the state, in those situations where the due process clause of the United States and California Constitutions did not apply. These include the following:

- 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 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.
- 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.

As noted by the Commission in the Statement of Decision and parameters and guidelines, 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.

Thus, the issue is whether the activity of providing the opportunity for an administrative appeal is reimbursable under current law when (1) permanent peace officer employees are subject to punitive actions, as defined in Government Code section 3303, or denials of promotion on grounds other than merit; and when (2) a chief of police is subject to removal.

⁸¹ *Williams v. Department of Water and Power* (1982) 130 Cal.App.3d 677, 684-685.

As indicated above, under prior law, permanent employees were already entitled to an administrative hearing pursuant to the due process clause of the United States and California Constitutions if they were subject to the following punitive actions: dismissal, demotion, suspension, reduction in salary, or a written reprimand. In addition, an at-will employee, such as the chief of police, was entitled to a due process liberty interest hearing under prior law if the charges supporting the dismissal constitute moral turpitude that harms the employee's reputation and ability to find future employment. The County of Los Angeles argues, however, that under the California Supreme Court decision in *San Diego Unified School District*, reimbursement must be expanded to include all activities required under the test claim statute, including those procedures previously required by the due process clause. A close reading of the *San Diego Unified School District* case, however, shows that it does not support the County's position.

The County relies on the Supreme Court's analysis on pages 879 (beginning under the header "2. Are the hearing costs state-mandated?") through page 882 of the *San Diego Unified School District* case. There, the court addressed two test claim statutes: Education Code section 48915, which *mandated* the school principal to immediately suspend and recommend the expulsion of a student carrying a firearm or committing another specified offense; and Education Code section 48918, which lays out the due process hearing requirements once the mandated recommendation is made to expel the student. The court recognized that the expulsion recommendation required by Education Code section 48915 was mandated "in that it establishes conditions under which the state, rather than local officials, has made the decision requiring a school district to incur the costs of an expulsion hearing."⁸² The Commission and the state, relying on Government Code section 17556, subdivision (c), argued, however, that the district's costs are reimbursable only if, and to the extent that, hearing procedures set forth in Education Code section 48918 exceed the requirements of federal due process.⁸³ The court disagreed. The court based its conclusion on the fact that the expulsion decision mandated by Education Code 48915, which triggers the district's costs incurred to comply with due process hearing procedures, did not implement a federal law. Thus, the court concluded that all costs incurred that are triggered by the state-mandated expulsion, including those that satisfy the due process clause, are fully reimbursable. The court's holding is as follows:

[W]e cannot characterize any of the hearing costs incurred by the District, triggered by the mandatory provision of Education Code section 48915, as constituting a federal mandate (and hence being nonreimbursable). We conclude that under the statutes existing at the time of the test claim in this case (state legislation in effect through mid-1994), all such hearing costs – those designed to satisfy the minimum requirements of federal due process, and those that may exceed those requirements – are, with respect

⁸² *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 880.

⁸³ *Ibid.*

to the mandatory expulsion provision of section 48915, state mandated costs, fully reimbursable by the state.⁸⁴

The POBOR legislation is different. The costs incurred to comply with the administrative appeal are *not* triggered by a state-mandated event, but are triggered by discretionary decisions made by local officials to take punitive action, or deny a promotion on grounds other than merit against a peace officer employee. Therefore, the Commission finds that the court's holding, authorizing reimbursement for *all* due process hearing costs triggered by a state-mandated event, does not apply to this case.

Rather, what applies from the *San Diego Unified School Dist.* decision to the administrative appeal activity mandated by Government Code section 3304 is the court's holding regarding discretionary expulsions. In the *San Diego* case, the court analyzed the portion of Education Code section 48915 that provided the school principal with the discretion to recommend that a student be expelled for specified conduct. If the recommendation was made and the district accepted the recommendation, then the district was required to comply with the mandatory due process hearing procedures of Education Code section 48918.⁸⁵ In this situation, the court held that reimbursement for the procedural hearing costs triggered by a local discretionary decision to seek an expulsion was not reimbursable because the hearing procedures were adopted to implement a federal due process mandate.⁸⁶ The court found that the analysis by the Second District Court of Appeal in *County of Los Angeles v. Commission on State Mandates (County of Los Angeles II)* was instructive.⁸⁷ In the *County of Los Angeles II* case, the court determined that even in the absence of the test claim statute, counties would be still be responsible for providing services under the constitutional guarantees of federal due process.⁸⁸

This analysis applies here. As indicated above, permanent employees were already entitled to an administrative hearing pursuant to the due process clause of the United States and California Constitutions if they were subject to the following punitive actions: dismissal, demotion, suspension, reduction in salary, or a written reprimand. In addition, an at-will employee, such as the chief of police, was entitled to a due process hearing under prior state and federal law if the charges supporting the dismissal constitute moral turpitude that harms the employee's reputation and ability to find future employment.

⁸⁴ *Id.* at pages 881-882.

⁸⁵ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at pages 884-890.

⁸⁶ *Id.* at page 888.

⁸⁷ *Id.* at page 888-889; *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805. The test claim statute in *County of Los Angeles* required counties to provide indigent criminal defendants with defense funds for ancillary investigation services for capital murder cases. The court determined that even in the absence of the test claim statute, indigent defendants in capital cases were entitled to such funds under the Sixth Amendment of the federal Constitution. (*Id.* at p. 815.)

⁸⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 888-889; *County of Los Angeles*, *supra*, 32 Cal.App.4th at page 815.

Thus, even in the absence of Government Code section 3304, local government would still be required to provide a due process hearing under these situations.

The City of Sacramento, however, contends in comments to the draft staff analysis that prior law does not require due process protections outlined by the Supreme Court in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, for employees receiving short-term suspensions, reclassifications, or reprimands. The City states that five-day suspensions, written reprimands and other lesser forms of punishment are covered by POBOR, but not *Skelly* and, thus, the administrative appeal required by POBOR is reimbursable for the lesser forms of punishment.

The City raised the same argument when the Commission originally considered the test claim, and the Commission disagreed with the arguments.⁸⁹ The Commission finds that the Commission's original conclusion on this issue is correct.

As discussed below, the City is correct that the *pre-disciplinary* protections outlined in *Skelly* do not apply to a short-term suspension or written reprimand. But prior law still requires due process protection, including an administrative hearing, when a permanent employee receives a short-term suspension, reprimand, or other lesser form of punishment. Thus, the administrative hearing required by the test claim legislation under these circumstances does not constitute a new program or higher level of service or impose costs mandated by the state.

Skelly involved the discharge of a permanent civil service employee. The court held that such employees have a property interest in the permanent position and the employee may not be dismissed or subjected to other forms of punitive action without due process of law. Based on the facts of the case (that a discharged employee faced the bleak prospect of being without a job and the need to seek other employment hindered by the charges against him), the court held that the employee was entitled to receive notice of the discharge, the reasons for the action, a copy of the charges and materials upon which the action is based, and the right to a hearing to respond to the authority imposing the discipline *before* the discharge became effective.⁹⁰ The Supreme Court in *Skelly* recognized, however, that due process requirements are not so inflexible as to require an evidentiary trial at the *preliminary* stage in every situation involving the taking or property. Although some form of notice and hearing must preclude a final deprivation of property, the timing and content of the notice, as well as the nature of the hearing will depend on the competing interests involved.⁹¹

Three years after *Skelly*, the Supreme Court decided *Civil Service Association v. the City and County of San Francisco*, a case involving the short-term suspensions of eight civil service employees.⁹² The court held that the punitive action involved with a short-term suspension is minor and does not require pre-disciplinary action procedures of the kind

⁸⁹ See original Statement of Decision (AR, pp. 865-866).

⁹⁰ *Skelly*, *supra*, 15 Cal.3d 194, 213-215.

⁹¹ *Id.* at page 209.

⁹² *Civil Service Association v. City and County of San Francisco* (1978) 22 Cal.3d 552.

required by *Skelly*.⁹³ But the employees were still entitled to due process protection, including the right to a hearing, since the temporary right of enjoyment to the position amounted to a taking for due process purposes.⁹⁴ The court held as follows:

However, while the principles underlying *Skelly* do not here compel the granting of predisciplinary procedures there mentioned, it does not follow that the employees are totally without right to hearing. *While due process does not guarantee to these appellants any Skelly-type predisciplinary hearing procedure, minimal concepts of fair play and justice embodied in the concept of due process require that there be a 'hearing,' of the type hereinafter explained.* The interest to be protected, i.e., the right to continuous employment, is accorded due process protection. While appellants may not in fact have been deprived of a salary earned but only of the opportunity to earn it, they had the expectancy of earning it free from arbitrary administrative action. [Citation omitted.] This expectancy is entitled to some modicum of due process protection. [Citation and footnote omitted.]

For the reasons state above, however, we believe that such protection will be adequately provided in circumstances such as these by procedures of the character outlined in *Skelly*, (i.e., one that will apprise the employee of the proposed action, the reasons therefore, provide for a copy of the charges including materials upon which the action is based, and the right to respond either orally or in writing, to the authority imposing the discipline) *if provided either during the suspension or within reasonable time thereafter*.⁹⁵ (Emphasis added.)

Thus, the court held that the employees that did not receive a hearing at all were entitled to one under principles of due process.⁹⁶ As indicated in the Commission's original Statement of Decision, the Third District Court of Appeal in the *Stanton* case also found that due process principles apply when an employee receives a written reprimand without a corresponding loss of pay.⁹⁷

Therefore, in the following situations, the Commission finds that the Commission's original decision in this case was correct in that Government Code section 3304 does not constitute a new program or higher level of service, or impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c), since the administrative appeal merely implements the due process requirements of the state and federal Constitutions:

⁹³ *Id.* at page 560.

⁹⁴ *Ibid.*

⁹⁵ *Id.* at page 564.

⁹⁶ *Id.* at page 565.

⁹⁷ *Stanton, supra*, 226 Cal.App.3d 1438, 1442.

- When a permanent employee is subject to a dismissal, demotion, suspension, reduction in salary, or a written reprimand.
- 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, thus imposing the requirement for a liberty interest hearing.

The due process clause, however, does not apply when a permanent employee is transferred for purposes of punishment, denied a promotion on grounds other than merit, or suffers other actions that result in disadvantage, harm, loss or hardship that impacts the career opportunities of the permanent employee. In addition, the due process clause does not apply when local officials want to remove the chief of police under circumstances that do not create a liberty interest since the chief of police is an at-will employee and does not have a property interest in the position. Providing the opportunity for an administrative appeal under these circumstances is new and not required under prior law. In addition, none of the exceptions in Government Code section 17556 to the finding of costs mandated by the state apply to these situations.

Accordingly, the Commission finds that Government Code section 3304 constitutes a new program or higher level of service and imposes costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for providing the opportunity for an administrative appeal in the following circumstances only:

- When a permanent employee is transferred for purposes of punishment, denied a promotion on grounds other than merit, or suffers other actions that result in disadvantage, harm, loss or hardship that impacts the career opportunities of the permanent employee.
- 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).

Interrogations

Government Code section 3303 prescribes protections that apply when "any" 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 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, or other routine or unplanned contact with, a supervisor. In addition, the requirements do not apply to an investigation concerned solely and directly with alleged criminal activities.⁹⁸

The Commission found that the following activities constitute a new program or higher level of service and impose costs mandated by the state:

⁹⁸ Government Code section 3303, subdivision (i).

- 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).)
- 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).)
- Tape recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

Government Code section 3313 directs the Commission to review these findings in order “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.” The Commission finds that neither the *San Diego Unified School Dist.* case, nor any other court decision published since 1999, changes the Commission’s conclusion that these activities constitute a new program or higher level of service and impose costs mandated by the state. Thus, these activities remain eligible for reimbursement when interrogating “any” peace officer, including probationary, at-will, and permanent officers that might subject the officer to punitive action.

The Commission also found that Government Code section 3303, subdivision (g), requires that:

- The peace officer employee shall have access to the tape recording of the interrogation if (1) any further proceedings are contemplated or, (2) prior to any further interrogation at a subsequent time.
- The peace officer shall be entitled to a transcribed copy of any interrogation notes made by a stenographer or any reports or complaints made by investigators or other persons, except those that are deemed confidential.

The Commission found that providing the employee with access to the tape prior to a further interrogation at a subsequent time constitutes a new program or higher level of service and imposes costs mandated by the state. However, the due process clause of the United States and California Constitutions already requires the employer to provide an employee who holds either a property or liberty interest in the job with the materials upon which the punitive, disciplinary action is based. Thus, the Commission found that even in the absence of the test claim legislation, the due process clause requires employers to provide the tape recording of the interrogation, and produce the transcribed copy of any interrogation notes made by a stenographer or any reports or complaints made by investigators or other persons, except those that are deemed confidential, to the peace officer employee when:

- a permanent employee is dismissed, demoted, suspended, receives a reduction in pay, or 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 charges of moral turpitude, which support the dismissal.

Under these circumstances, the Commission concluded that the requirement to provide these materials under the test claim legislation *does not* impose a new program or higher level of service because this activity was required under prior law through the due process clause. Moreover, pursuant to Government Code section 17556, subdivision (c), the costs incurred in providing these materials merely implements the requirements of the United States Constitution.

The Commission finds that the conclusion denying reimbursement to provide these materials following the interrogation when the activity is already required by the due process clause of the United States and California Constitutions is consistent with the Supreme Court's ruling in *San Diego Unified School Dist.* The costs incurred to comply with these interrogation activities are *not* triggered by a state-mandated event, but are triggered by discretionary decisions made by local officials to interrogate an officer. Under these circumstances, the court determined that even in the absence of the test claim statute, counties would still be responsible for providing services under the constitutional guarantees of due process under the federal Constitution.⁹⁹

Thus, the Commission finds that the Commission's decision, that Government Code section 3303, subdivision (g), constitutes a new program or higher level of service and imposes costs mandated by the state for the following activities, is legally correct:

- Provide 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:
 - (a) the further proceeding is not a disciplinary punitive 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.
- Produce 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 following the interrogation, in the following circumstances:
 - (a) when the investigation *does not* result in disciplinary punitive action; and

⁹⁹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 888-889; *County of Los Angeles*, *supra*, 32 Cal.App.4th at page 815.

(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 employees 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 opportunities of the employee.

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 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.¹⁰⁰

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.¹⁰¹ It does not interfere with the employer's right to manage and control its own police department.¹⁰²

Finally, the County of Orange contends that "[s]erious cases also tend to involve lengthy appeals processes that require delicate handling due to the increased rights under POBOR." For purposes of clarification, at the parameters and guidelines phase of this claim, the Commission denied reimbursement for the cost of defending lawsuits appealing the employer action under POBOR, determining that the test claim did not allege that the defense of lawsuits constitutes a reimbursable state-mandated program.¹⁰³ Government Code section 3313 does not give the Commission jurisdiction to change this finding.

Nevertheless, when adopting parameters and guidelines for this program, the Commission recognized the complexity of the procedures required to interrogate an officer, and approved several activities that the Commission found to be reasonable methods to comply with the mandated activities pursuant to the authority in section 1183.1, subdivision (a)(4), of the Commission's regulations. For example, the Commission authorized reimbursement, when preparing the notice regarding the nature of the interrogation, for reviewing the complaints and other documents in order to properly prepare the notice. The Commission also approved reimbursement for the mandated interrogation procedures when a peace officer witness was interrogated since the interrogation could lead to punitive action for that officer. Unlike other reconsideration statutes that directed the Commission to revise the parameters and guidelines, the Commission does not have jurisdiction here to change any discretionary findings or add any new activities to the parameters and guidelines that may be

¹⁰⁰ Analysis adopted by the Commission on the Parameters and Guidelines, July 22, 2000 (AR, p. 912).

¹⁰¹ *Sulier v. State Personnel Bd.* (2004) 125 Cal.App.4th 21, 26.

¹⁰² *Baggett, supra*, 32 Cal.3d 128, 135.

¹⁰³ Analysis adopted by the Commission on the Parameters and Guidelines, July 22, 2000 Commission hearing (AR, pp. 904-906).

considered reasonable methods to comply with the program. The jurisdiction in this case is very narrow and limited to reviewing the Statement of Decision to clarify, as a matter of law, whether the test claim legislation constitutes a new program or higher level of service and imposes costs mandated by the state consistent with the California Supreme Court Decision in *San Diego Unified School Dist.* and other applicable court decisions.¹⁰⁴

Adverse Comments

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.

Thus, Government Code sections 3305 and 3306 impose the following requirements on employers:

- to provide notice of the adverse comment;¹⁰⁵
- to provide an opportunity to review and sign the adverse comment;
- to provide an opportunity to respond to the adverse comment within 30 days; and
- to note on the document that the peace officer refused to sign the adverse comment and to obtain the peace officer’s signature or initials under such circumstances.

As noted in the 1999 Statement of Decision, the Commission recognized that the adverse comment could be considered a written reprimand or could lead to other punitive actions taken by the employer. If the adverse comment results in a dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer or the comment harms an officer’s reputation and opportunity to find future employment, then the provisions of the test claim legislation which require notice and an opportunity to review and file a written response are already guaranteed under the due process clause of the state and federal constitutions.¹⁰⁶ Under such circumstances, the Commission found that the notice, review and response requirements of Government Code sections 3305 and 3306 *do not* constitute a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution. Moreover, the Commission recognized that pursuant to Government Code section 17556, subdivision (c), the costs incurred in

¹⁰⁴ However, any party may file a request to amend the parameters and guidelines pursuant to the authority in Government Code section 17557.

¹⁰⁵ The Commission found that notice is required since the test claim legislation states 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.*” Thus, the Commission found that the officer must receive notice of the comment before he or she can read or sign the document.

¹⁰⁶ *Hopson, supra*, 139 Cal.App.3d 347.

providing notice and an opportunity to respond do not impose “costs mandated by the state”. The Commission finds that this finding is consistent with *San Diego Unified School Dist.* since the local entity would be required, in the absence of the test claim legislation, to perform these activities to comply with federal due process procedures.¹⁰⁷

However, the Commission found that under circumstances where the adverse comment affects the officer’s property or liberty interest as described above, the following requirements imposed by the test claim legislation *are not* specifically required by the case law interpreting the due process clause:

- obtaining the signature of the peace officer on the adverse comment, or
- noting the peace officer’s refusal to sign the adverse comment and obtain the peace officer’s signature or initials under such circumstances.

The Commission approved these two procedural activities since they were not expressly articulated in case law interpreting the due process clause and, thus, exceed federal law. The City of Sacramento contends that these activities remain reimbursable.

The Commission finds, however, that the decision in *San Diego Unified School Dist.* requires that these notice activities be denied pursuant to Government Code section 17556, subdivision (c), since they are “part and parcel” to the federal due process mandate, and result in “de minimis” costs to local government.

In *San Diego Unified School Dist.*, the Supreme Court held that in situations when a local discretionary decision triggers a federal constitutional mandate such as the procedural due process clause, “the challenged state rules or procedures that are intended to implement an applicable federal law -- and whose costs are, in context, de minimis -- should be treated as part and parcel of the underlying federal mandate.”¹⁰⁸ Adopting the reasoning of *County of Los Angeles II*, the court reasoned as follows:

In *County of Los Angeles II*, supra 32 Cal.App.4th 805 [unofficial cite omitted], the initial discretionary decision (in the former case, to file charges and prosecute a crime; in the present case, to seek expulsion) in turn triggers a federal constitutional mandate (in the former case, to provide ancillary defense services; in the present case, to provide an expulsion hearing). In both circumstances, the Legislature, in adopting specific statutory procedures to comply with the general federal mandate, reasonably articulated various incidental procedural protections. These protections are designed to make the underlying federal right enforceable and to set forth procedural details that were not expressly articulated in the case law establishing the respective rights; viewed singly or cumulatively, they do not significantly increase the cost of compliance with the federal mandate. The Court of Appeal in *County of Los Angeles II* concluded that, for purposes of ruling upon a claim for reimbursement, such incidental procedural requirements, producing at most de minimis added cost, should be viewed as part and parcel of the underlying federal

¹⁰⁷ *San Diego Unified School Dist.*, supra, 33 Cal.4th 859, 888-889.

¹⁰⁸ *Id.* at page 890.

mandate, and hence nonreimbursable under Government Code section 17556, subdivision (c). We reach the same conclusion here.¹⁰⁹

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.

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.

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.¹¹⁰ 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 concerning an officer, including decisions that do not constitute discipline or punitive action."¹¹¹ 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.¹¹² Neither *San Diego Unified School Dist.*, nor any other

¹⁰⁹ *Id.* at page 889.

¹¹⁰ *Sacramento Police Officers Assn. v. Venegas* (2002) 101 Cal.App.4th 916, 925.

¹¹¹ *Id.* at page 926.

¹¹² For example, for counties, the Commission approved the following activities that were not required under prior statutory law:

If an adverse comment is related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:

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.

CONCLUSION

The Commission finds 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 finds 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.)

-
- Providing notice of the 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 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.

If an adverse comment is not related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for:

- Providing notice of the adverse comment; and
- 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.

- 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 clause¹¹³ 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).

¹¹³ 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.

EXHIBIT II

**FINAL AUDIT
REPORT**

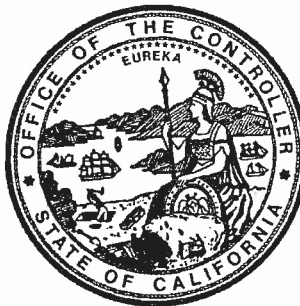
CITY OF LOS ANGELES

Audit Report

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM

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

July 1, 2003, through June 30, 2008



JOHN CHIANG
California State Controller

September 2009



JOHN CHIANG
California State Controller

September 29, 2009

The Honorable Antonio Villaraigosa
Mayor of the City of Los Angeles
200 North Main Street, Suite 303
Los Angeles, CA 90012

Dear Mayor Villaraigosa:

The State Controller's Office audited the costs claimed by the City of Los Angeles for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 2003, through June 30, 2008.

The city claimed \$50,281,773 for the mandated program. Our audit disclosed that \$20,131,194 is allowable and \$30,150,579 is unallowable. The costs are unallowable primarily because the city claimed costs that are ineligible for reimbursement. The State will pay allowable costs claimed that exceed the amount paid, totaling \$5,938,160, contingent upon available appropriations.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's Web site at www.csm.ca.gov/docs/IRCForm.pdf.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: Wendy Greuel, City Controller
City of Los Angeles
Laura Filatoff, Commanding Officer
Fiscal Operations Division
Los Angeles Police Department
Todd Jerue, Program Budget Manager
Corrections and General Government
Department of Finance
Carla Castaneda
Principal Program Budget Analyst
Department of Finance
Paula Higashi, Executive Director
Commission on State Mandates

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Los Angeles for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 2003, through June 30, 2008.

The city claimed \$50,281,773 for the mandated program. Our audit disclosed that \$20,131,194 is allowable and \$30,150,579 is unallowable. The costs are unallowable primarily because the city claimed costs that are ineligible for reimbursement. The State paid the city \$14,193,034. The State will pay allowable costs claimed that exceed the amount paid, totaling \$5,938,160, contingent upon available appropriations.

Background

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990 added and amended Government Code sections 3300 through 3310. This legislation, known as the Peace Officers Procedural Bill of Rights (POBOR) was enacted to ensure stable employer-employee relations and effective law enforcement services.

This 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 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 on State Mandates (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the statement of decision. The CSM determined that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the California Constitution, Article XIII B, Section 6, and Government Code section 17514. The CSM further defined that activities covered by due process are not reimbursable.

The parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on July 27, 2000 and corrected it on August 17, 2000. The parameters and guidelines categorize reimbursable activities into the four following components: Administrative Activities, Administrative Appeal, Interrogation, and Adverse Comment. In compliance with Government Code section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming reimbursable costs.

In 2005, Statutes 2005, Chapter 72, section 6 (AB 138) added Government Code section 3313. This legislation directed the CSM to “review” the statement of decision, adopted in 1999, on the POBOR test claim to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court Decision in *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal. 4th 859 and other applicable court decisions. On April 26, 2006, the CSM reviewed its original findings and adopted a statement of decision on reconsideration, which became final on May 1, 2006. The CSM found that the above-mentioned court case supports the CSM’s 1999 statement of decision. The CSM further found that the test claim legislation constitutes a partial reimbursable state-mandated program for all activities previously approved by the CSM 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.
- The activity 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.

The CSM adopted amended parameters and guidelines on March 28, 2008. The amended parameters and guidelines allows claimants to be reimbursed for reimbursable activities by claiming costs pursuant to the reasonable reimbursement methodology or by filing an actual cost claim. The amended parameters and guidelines apply to costs incurred and claimed beginning on July 1, 2006.

The reasonable reimbursement methodology allows each eligible claimant to be reimbursed for fiscal year (FY) 2006-07 at the rate of \$37.25 per full-time sworn peace officer employed by the agency and reported to the Department of Justice. The rate per full-time sworn peace officer is adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the POBOR Program for the period of July 1, 2003, through June 30, 2008.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the city’s financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and

conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the city's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the City of Los Angeles claimed \$50,281,773 for costs of the POBOR Program. Our audit disclosed that \$20,131,194 is allowable and \$30,150,579 is unallowable.

For the fiscal year (FY) 2003-04 claim, the State made no payment to the city. Our audit disclosed that \$4,045,094 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$4,045,094, contingent upon available appropriations.

For the FY 2004-05 claim, the State made no payment to the city. Our audit disclosed that \$3,502,946 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$3,502,946, contingent upon available appropriations.

For the FY 2005-06 claim, the State paid the city \$6,863,452. Our audit disclosed that \$3,771,678 is allowable. The State will offset \$3,091,774 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

For the FY 2006-07 claim, the State paid the city \$7,329,582. Our audit disclosed that \$3,382,309 is allowable. The State will offset \$3,947,273 from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

For the FY 2007-08 claim, the State made no payment to the city. Our audit disclosed that \$5,429,167 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$5,429,167, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on August 12, 2009. William J. Bratton, Chief of Police, responded by letter dated September 15, 2009 (Attachment), disagreeing with the significant audit results in Finding 1, and agreeing with the remaining two findings. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Los Angeles, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

September 29, 2009

Schedule 1— Summary of Program Costs July 1, 2003, through June 30, 2008

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries	\$ 4,858,882	\$ 2,110,512	\$ (2,748,370)	Findings 1,2,3
Benefits	1,519,373	654,782	(864,591)	Findings 1,2,3
Services and supplies	708,683	—	(708,683)	Findings 1,2,3
Total direct costs	7,086,938	2,765,294	(4,321,644)	
Indirect costs	2,989,184	1,279,800	(1,709,384)	Findings 1,2,3
Total program costs	<u>\$ 10,076,122</u>	<u>4,045,094</u>	<u>\$ (6,031,028)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 4,045,094</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 4,401,434	\$ 1,751,065	\$ (2,650,369)	Findings 1,3
Benefits	1,599,249	636,890	(962,359)	Findings 1,3
Total direct costs	6,000,683	2,387,955	(3,612,728)	
Indirect costs	2,748,667	1,114,991	(1,633,676)	Findings 1,3
Total program costs	<u>\$ 8,749,350</u>	<u>3,502,946</u>	<u>\$ (5,246,404)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 3,502,946</u>		
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs:				
Salaries	\$ 4,985,402	\$ 1,993,037	\$ (2,992,365)	Findings 1,3
Benefits	1,916,184	765,985	(1,150,199)	Findings 1,3
Total direct costs	6,901,586	2,759,022	(4,142,564)	
Indirect costs	2,493,899	1,012,656	(1,481,243)	Findings 1,3
Total program costs	<u>\$ 9,395,485</u>	<u>3,771,678</u>	<u>\$ (5,623,807)</u>	
Less amount paid by the State		(6,863,452)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (3,091,774)</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs:				
Salaries	\$ 4,516,381	\$ 1,800,575	\$ (2,715,806)	Findings 1,3
Benefits	1,966,746	784,387	(1,182,359)	Findings 1,3
Total direct costs	6,483,127	2,584,962	(3,898,165)	
Indirect costs	1,974,526	797,347	(1,177,179)	Findings 1,3
Total program costs	<u>\$ 8,457,653</u>	3,382,309	<u>\$ (5,075,344)</u>	
Less amount paid by the State		(7,329,582)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (3,947,273)</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Direct costs:				
Salaries	\$ 6,699,960	\$ 2,664,537	\$ (4,035,423)	Findings 1,3
Benefits	3,184,851	1,267,328	(1,917,523)	Findings 1,3
Total direct costs	9,884,811	3,931,865	(5,952,946)	
Indirect costs	3,718,352	1,497,302	(2,221,050)	Findings 1,3
Total program costs	<u>\$ 13,603,163</u>	5,429,167	<u>\$ (8,173,996)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 5,429,167</u>		
<u>Summary: July 1, 2003, through June 30, 2008</u>				
Direct costs:				
Salaries	\$ 25,462,059	\$ 10,319,726	\$ (15,142,333)	
Benefits	10,186,403	4,109,372	(6,077,031)	
Services and supplies	708,683	—	(708,683)	
Total direct costs	36,357,145	14,429,098	(21,928,047)	
Indirect costs	13,924,628	5,702,096	(8,222,532)	
Total program costs	<u>\$ 50,281,773</u>	20,131,194	<u>\$ (30,150,579)</u>	
Less amount paid by the State		(14,193,034)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 5,938,160</u>		
<u>Recap by Component</u>				
Administrative Activities	\$ 4,072,635	\$ 179,583	\$ (3,893,052)	
Interrogations	17,519,767	1,709,075	(15,810,692)	
Adverse Comment	28,689,371	18,242,536	(10,446,835)	
Total program costs	<u>\$ 50,281,773</u>	<u>\$ 20,131,194</u>	<u>\$ (30,150,579)</u>	

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salaries, benefits, and related indirect costs

The city claimed \$35,648,462 in salaries and benefits for the audit period. We determined that \$14,183,993 is allowable and \$21,464,469 is unallowable. The costs are unallowable because the activities claimed are not identified in the parameters and guidelines as reimbursable costs. The related unallowable indirect costs totaled \$8,307,090.

The following table summarizes the claimed, allowable, and unallowable costs for the audit period by reimbursable component:

<u>Reimbursable Component</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
Direct costs:			
Administrative Activities	\$ 2,864,828	\$ 118,411	\$ (2,746,417)
Interrogations	12,505,518	1,216,206	(11,289,312)
Adverse Comments	20,278,116	12,849,376	(7,428,740)
Total direct costs	35,648,462	14,183,993	(21,464,469)
Indirect costs	13,924,628	5,617,538	(8,307,090)
Total	<u>\$ 49,573,090</u>	<u>\$ 19,801,531</u>	<u>\$ (29,771,559)</u>

We have broken down the audit findings for overstated salaries and benefits by individual cost component.

Administrative Activities

For the Administrative Activities cost component, the city claimed \$2,864,828 in salaries and benefits for the audit period. We determined that \$118,411 is allowable and \$2,746,417 is unallowable. The costs are unallowable because the city claimed reimbursement for unallowable activities. Related unallowable indirect costs totaled \$1,054,878.

The program's parameters and guidelines allow reimbursement for the following activities under the cost component of Administrative Activities:

- Developing or updating internal policies, procedures, manuals, and other materials pertaining to the conduct of the mandated activities;
- Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate; and
- Updating the status report of the POBOR cases.

The city claimed costs for nine activities under this component. We determined that the following two activities are reimbursable:

- **Status:** This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per LAPD staff, the cases are updated for every activity and/or procedural change.
- **Assign:** This activity consists solely of updating the database and noting the case assignment to an investigator for adjudication.

We also determined that the following seven activities are not reimbursable:

- **Comment:** The ARS section in Internal Affairs performs this task by creating a file and a case number when the Professional Standards Bureau receives a “1.28” complaint form. Per LAPD staff, this activity is an internal procedure created by the LAPD to ensure compliance with the investigation time frame of one year.
- **Locate:** This activity denotes the time required for the Classifications Unit to read the “1.28” (complaint form) and determine the best entity to perform the investigation. After determining which entity will investigate, the form is sent to the ARS.
- **Invest:** When the investigation is complete, the case file is sent to the Review and Evaluation Section. This activity consists of updating the database to note this information.
- **IA Review:** This activity consists of the time it takes to update the database for Internal Affairs’ (IAG) review. Per LAPD staff, this activity is similar to Invest, but one IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It is another type of review and another change in status.
- **Appeal:** This activity takes place when the case is going to the Advocate Section, where another file is created and entered into the Advocate Database. Per LAPD staff, the case is in the appeal phase and is no longer being investigated or reviewed. This activity pertains to the procedural process of transferring a case in the Advocate Unit, tracking the appeal process, and tracking where the case is.
- **Note:** This activity consists of distributing copies of the face sheet (which contains the summary of allegations and the names of the involved parties) to concerned parties. This activity occurs in the ARS and is based on the time it takes to update the database for the activity.
- **Close Out:** The ARS closes out the case file and documents this activity. This activity is a database update function.

The CSM staff analysis (dated July 27, 2000) for the proposed parameters and guidelines noted that “before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary hearings, and maintaining files for those cases.”

Accordingly, it is our understanding that reimbursement is unallowable for activities related to managing case files. The parameters and guidelines allow reimbursement for activities that relate to updating the status report of the mandate-related activities.

Additional clarifying language was provided in the amended parameters and guidelines (section IV.A.—Administrative Activities), which states that “Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.”

Interrogations

For the Interrogations cost component, the city claimed \$12,505,518 in salaries and benefits for the audit period. We determined that \$1,206,216 is allowable and \$11,289,312 is unallowable. The costs were unallowable because the city claimed reimbursement for unallowable activities. The related unallowable indirect costs totaled \$4,525,705.

The parameters and guidelines for the POBOR program allow the following activities for reimbursement under the Interrogations cost component:

- 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.
- Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers.
- Tape recording the interrogation when the peace officer employee records the interrogation.
- Providing the peace officer employee with access to the recording prior to any further investigation at a subsequent time, or if any further proceedings are contemplated.
- 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.

The city claimed the following 15 activities under the cost component of Interrogations:

1. Admin Task (Administrative Task)
2. Call out
3. CO Contact (Commanding Officer Contact)
4. Evidence Collect
5. Interview in person
6. Interview Telephone
7. Kickback Editing
8. Meet/Brief/Notify
9. Non-Evidence Task
10. Paraphrasing
11. Prep for Interview
12. Report Formatting
13. Telephone contact
14. Travel
15. VI Computer Task

The city did not provide a formal description of these activities. LAPD staff stated that these activities involved time for conducting investigations, collecting evidence, writing reports, and editing reports. We determined that these activities are unallowable because they relate to the investigation process.

In reference to compensation and timing of the interrogation pursuant to Government Code section 3303, subdivision (a), the CSM final staff analysis to the adopted parameters and guidelines states:

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.

In addition, the amended parameters and guidelines (section IV.C.–Interrogations) state that “Investigation activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses” are not reimbursable.

The amended parameters and guidelines (section IV.D.–Adverse Comment) also state that “investigating a complaint,” “interviewing a complainant,” and “preparing a complaint investigation report” are not reimbursable activities.

The activities numerated above were not included in the documents that were attached to the city's claims supporting its time study. We noted during the course of audit fieldwork that the city's time study included the five activities described below under the component of Interrogations. However, none of these activities were included in the city's claims.

- **Interview:** Conducting the interrogation of the accused officer. The start and end time of the interrogation is noted. Per LAPD staff, interrogations usually take place during normal working hours and rarely happen during overtime (accused officer's off-duty time). The city's time study did not specify if and when the officers were paid overtime for the interviews.
- **ID, ID-A, ID-W:** Providing prior notice to the officer (accused and/or witness) regarding the nature of the interrogation and identification of the investigating officer. This activity occurs in the Administrative or Criminal Investigation Division.
- **Determine:** Determination of the investigating officers. This activity is assigned to the section Officer-in-Charge (OIC).
- **Tape:** Tape recording the interrogation. Per LAPD staff, this activity rarely happens. In fact, no time increments were claimed for the tape recording activity.
- **Booking Tape:** Booking (storing) the tape at the Scientific Investigations Division.

We were able to calculate how much time was spent to conduct the five activities that were omitted from the city's claims. We also determined that four of the activities are allowable (ID, Determine, Tape, and Booking Tape) and one (Interview) is unallowable. Interview is unallowable because the city indicated that most peace officer interviews

occur during normal working hours. In addition, the city did not keep track of the instances when officers were compensated for interviews that took place during their off-duty time.

Adverse Comment

For the Adverse Comment cost component, the city claimed \$20,278,116 in salaries and benefits for the audit period. We determined that \$12,849,376 is allowable and \$7,428,740 is unallowable. The costs were unallowable because the city claimed reimbursement for unallowable activities. The related unallowable indirect costs totaled \$2,726,507.

Depending on the circumstances surrounding an adverse comment, the parameters and guidelines allow these activities for reimbursement under the Adverse Comment cost component:

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

Included in the foregoing are review of circumstances 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 city claimed costs for 16 activities under this cost component. We determined that the following 11 activities are reimbursable:

- **Review:** This activity involves the review of the "1.28" (complaint form) and the circumstances leading to the adverse comment. This is the preliminary review of the comment to determine if it is an adverse comment and warrants further investigation. The Complaint Classification Unit performs this activity. This activity also includes the time it takes to prepare a face sheet concerning the complaint.
- **Note:** This activity consists of providing notice to the peace officer of the adverse comment or complaint fact sheet. This activity is associated with the first notice of adverse comment to the officer and that an investigation is taking place.
- **Respond:** This activity is also associated with providing first notice of the adverse comment and that an investigation is taking place. The activity provides the officer an opportunity to respond within 30 days.

- **Sign:** This activity occurs when the officer under investigation reviews and signs the adverse comment or complaint fact sheet, which is the first notice of complaint from Internal Affairs.
- **Refuse:** If the accused officer refuses to sign the face sheet or initial the adverse comment, the time involved is noted.
- **Approval:** This activity consists of the review by Internal Affairs Management of a completed case prior to sending the case to an Area or Division for notification to the officer under investigation.
- **Adjudication:** This activity consists of the time spent by the Command Officer (accused officer's supervisor) of the Area to adjudicate the complaint. This activity would include a review of the completed complaint and the formulation of a Letter of Transmittal (LOT).
- **CO Review:** According to LAPD staff, "CO review" is closely tied with "Adjudication." This activity consists of the time spent by the commanding officer of the Area to review the complaint and LOT.
- **Preparation:** This activity consists of the preparation of the "Charge Sheet" for the Chief of Police to sign.
- **Serve:** This activity entails ensuring that the accused officer is served with the "Charge Sheet" and obtaining the officer's signature or noting the officer's refusal to sign the charge sheet.
- **Accuracy:** This activity involves reviewing the accused officer's response to the complaint or "1.28" (complaint form).

The city also claimed the following five activities that are not reimbursable.

- **Preliminary:** This activity involves investigating the circumstances surrounding the adverse comment.
- **Collect:** This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the Area where the complaint was taken. This activity can include report writing, interviews, or any activity in which information is gathered for the "1.28" (complaint form).
- **Area Invest:** This activity consists of the time spent by an Area to investigate the complaint or "1.28" (complaint form). This activity occurs after the preliminary investigation.
- **Inspect:** This activity occurs when the assigned Advocate reviews the investigation for status and thoroughness.
- **RE Invest:** This activity involves the time needed to conduct any additional investigations.

These activities were unallowable because they are part of the city's investigative process. We noted in the Interrogations section of this finding that investigative activities are ineligible for reimbursement.

In addition, we noted that the amended parameters and guidelines (section IV.C.—Interrogations) state that “Investigation activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses” are not reimbursable.

The amended parameters and guidelines (section IV.D.—Adverse Comment) also state that “investigating a complaint,” “interviewing a complainant,” and “preparing a complaint investigation report” are not reimbursable activities.

Averaging Methodology and Calculation of Allowable Hours

The city developed a time study to document activities and tasks that are related to the POBOR Program. The time study was conducted for the duration of one month and was completed in May 2004. The city recorded the time study results in an internal database that summarized average time increments spent for each activity by employee classification.

To calculate time increments applicable to each case, the city developed an averaging methodology that combined all task/activity entries per classification and per activity into one average time increment. The average time increments were then used to prepare the city’s claims. During the audit, we separated the time that was attributable to each individual task. We did this because not all activities recorded in the time study were allowable for reimbursement. As the database tracked all individual task entries for each classification, we were able to separate minute increments for individual activities in order to exclude time spent on unallowable activities.

We were able to use data from the time study to calculate the allowable time per case. We manually added all of the entries for each individual task and determined how much time was spent to perform each individual activity. We then took a percentage of minutes for allowable tasks and determined the amount of reimbursable time per each POBOR case.

After we determined the allowable time increments per case, the time increments were applied to the number of cases claimed in each fiscal year. We did not make any adjustments to the number of cases that were included in the city’s claims.

Case Statistics

We noted that the city was inconsistent in its application of case statistics in its claims. Case counts included in the claims were based on closed cases in some years and based on in progress cases in other years. However, we did not adjust the number of cases that were claimed. The SCO time study guidelines indicate that agencies may employ any methodology as long as the agency consistently applies the chosen methodology. Neither the parameters and guidelines nor the SCO claiming instructions specify whether agencies should use the number of

closed cases or the number of cases in progress to calculate their costs for reimbursement. However, we recommend that the city use a more consistent approach in applying its case counts to calculate costs for reimbursement in future years.

Database Rounding Errors

During our review of the time study and the internal database, we noted a few minor rounding errors in the city's database that calculates average minutes per case. In a few instances, the city's calculations of average minutes per case were off by about a minute per case. The discrepancies were due to errors in converting minutes to hours and vice versa. We manually added up all of the individual time entries and incorporated the rounding errors (in the city's favor) into the calculation of allowable hours.

Summary

The following table summarizes the audit adjustments by fiscal year:

Cost Categories	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	2007-08
Salaries	\$ (2,837,773)	\$ (2,650,369)	\$ (2,998,526)	\$ (2,715,806)	\$ (4,119,748)
Benefits	(887,371)	(962,359)	(1,152,572)	(1,182,359)	(1,957,586)
Subtotal	(3,725,144)	(3,612,728)	(4,151,098)	(3,898,165)	(6,077,334)
Related indirect costs	(1,745,798)	(1,633,676)	(1,483,051)	(1,177,179)	(2,267,386)
Audit adjustment	\$ (5,470,942)	\$ (5,246,404)	\$ (5,634,149)	\$ (5,075,344)	\$ (8,344,720)

The parameters and guidelines for POBOR Program that were adopted by the CSM on July 27, 2000, and corrected on August 17, 2000, define the criteria for procedural protection for the city and county's peace officers. The parameters and guidelines, amended on December 4, 2006, and again on March 28, 2008, were applicable for claims filed for FY 2006-07 and beyond. A significant amount of clarifying language was included in the amended versions. The most recent version of the parameters and guidelines allow claimants the option of claiming costs using a reasonable reimbursement methodology.

The parameters and guidelines (section IV.—Reimbursable Activities) outline specific tasks that are deemed to go beyond due process. The statement of decision, on which the parameters and guidelines were based, noted that due process activities were not reimbursable.

The parameters and guidelines (section V.A.1.—Salaries and Benefits) require that the claimants identify the employees and/or show the classification of the employees involved, describe the reimbursable activities performed, and specify the actual time devoted to each reimbursable activity by each employee.

The parameters and guidelines (section VI.—Supporting Data) require that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the state-mandated program.

The amended parameters and guidelines (section V.B.—Actual Cost Claims) indicate that the claimant is allowed to claim and be reimbursed only for increased costs for reimbursable activities. Increased costs are limited to the cost of an activity that the claimant is required to incur as a result of the mandate. 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 SCO.

Recommendation

We recommend that the city establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

City's Response

The City claimed \$35,648,462 in salaries and benefits for the audit period. The Controller determined that \$14,183,993 is allowable and \$21,464,469 is unallowable. The costs are unallowable because the Administrative, Interrogation, and Adverse Comment Activities claimed are not identified in the Parameters and Guidelines as reimbursable costs.

Administrative Activities

The Controller determined that only \$118,411 of the \$2,864,828 is allowable because the City claimed reimbursement for unallowable activities.

The City disagrees with all of the State Controller's disallowances. It is the City's opinion that all of those activities are administrative in nature and reasonably necessary to carry out the POBOR program in such a large agency as the LAPD.

The City disagrees with what it perceives as the Controller's very narrow interpretation of the Administrative Activities component of the Commission on State Mandates' Parameters and Guidelines. When the Statement of Decision for the test claim was adopted nearly 10 years ago, there was no discussion of administrative activities for the POBOR Program. When the Parameters and Guidelines was adopted, it was assumed that, for the most part, any reasonably necessary administrative activities associated with the POBOR Program were eligible for reimbursement. A few activities, such as training, were normally addressed specifically, since the Controller often would not allow for training costs if they were specifically addressed in the Parameters and Guidelines. By including the Administrative Activities component, it is believed that the Commission intended to include anything reasonably necessary unless it was specifically excluded, such as the limitation on training for only human resources, law enforcement and legal counsel regarding the requirements of the mandate.

Interrogation Activities

The Controller determined that of the \$12,505,518 in salaries and benefits claimed for the audit period, \$1,206,216 is allowable and \$11,289,312 is unallowable. Once again, the Controller contends the City's costs were unallowable because they were for unallowable activities.

The City is appreciative of the fact the Controller allowed for the \$1,206,216 of costs which were not specifically addressed in its claims. But rather, the Controller, at its own initiative, based on the City's very detailed time study, calculated how much time was spent to conduct the five reimbursable activities it allows for as part of the Interrogation component in the parameters as noted on page ten (10) of the draft audit report.

The City, along with numerous other local agencies, disagrees with the State Controller's interpretation of the primary eligible costs for this component. The City believes the Parameters and Guidelines, as amended at the Controller's request in December 2006, do not accurately reflect the original Statement of Decision which found that eligible costs included: "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." The Controller has limited reimbursement to only officers being compensated for overtime. The City believes the costs for conducting interrogations during regular work time is reimbursable, as is preparation for those interrogations.

Adverse Comment

The City claimed \$20,278,116 in salaries and benefits for the audit period. The Controller determined that \$12,849,376 is allowable and \$7,428,740 is unallowable. The costs were deemed unallowable because the City claimed reimbursement for unallowable activities.

The City identified 16 activities in its time study under this cost component. The Controller found that 11 activities were eligible for reimbursement and 5 were not. The Controller points out that the 5 activities are part of the City's investigative process and are, therefore, not reimbursable. It is the City's contention that, for the most part, the 5 activities are necessary activities to prepare the Adverse Comment and therefore should be reimbursable. The City does not dispute the Controller's statement that the revised Parameters and Guidelines (section IV(D)—Adverse Comment) state that the "investigating a complaint," "interviewing a complainant," and "preparing a complaint investigation report" are not reimbursable activities.

SCO's Comment

The finding and recommendation remain unchanged.

We concur that the unallowable costs contained in the audit report were not caused by an inflation of costs by the city. Instead, costs were unallowable due to a misinterpretation of what is and what is not allowable for reimbursement from the State under the mandated program.

We will address the rest of our comments for the audit finding in the same order as they appear in the city's response.

Administrative Activities

We do not dispute that the administrative activities included in the city's time study are necessary and reasonable for the conduct of the city's internal affairs investigations of police officer misconduct. The issue is the determination of whether the activities were eligible for reimbursement under the mandated program.

We concur that there was no discussion of administrative activities in the statement of decision adopted by the CSM on November 30, 1999. The purpose of the statement of decision is to determine whether or not the test claim statutes support or do not support a finding that costs are being mandated by the State. The CSM recognizes that certain administrative tasks are necessary to carry out mandated activities and typically includes these in the adopted parameters and guidelines. The city states its assumption that when the parameters and guidelines were adopted for this mandate, "any reasonably necessary administrative activities associated with the POBOR program were eligible for reimbursement." The city goes on to state that "By including the Administrative Activities component, it is believed that the Commission intended to include anything reasonably necessary unless it was specifically excluded, such as the limitation on training for only human resources, law enforcement, and legal counsel regarding the requirements of the mandate." However, we can find no language in the adopted parameters and guidelines or in the legal record for this mandate confirming this assumption.

In the staff analysis for the proposed POBOR Program's parameters and guidelines (Item #10 in the CSM hearing of July 27, 2000), the CSM discussed its analysis of the test claimant's proposed parameters and guidelines for administrative activities. The proposed activities included the following:

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 CSM's staff analysis goes on to state:

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 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."

The CSM also considered the topic of Administrative Activities in its December 4, 2006, final staff analysis (Item #13–Request to Amend Parameters and Guidelines), which states:

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* [emphasis added] filed comments contending that the proposal is too narrow because of the time constraints imposed by the POBOR legislation. 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. 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:

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. [CSM] 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."

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.

We believe that from this record of evidence, the position taken by the city in its response to our audit findings regarding allowable administrative activities has already been considered by CSM and denied for the reasons stated above. The amendments to the POBOR statutes cited by the CSM in its staff analysis of December 4, 2006, were contained in Statutes of 1997, Chapter 148. To date, no interested party has filed a test claim to determine whether this legislation imposes a state mandate. In the meantime, SCO will continue to use the criteria contained in the adopted parameters and guidelines to determine the allowable activities under this mandated program.

Interrogations

The city is objecting to our finding that costs incurred for interrogating accused and witnessing officers during regular working hours and preparation for those interrogations are unallowable. Further, the city claims that the finding is based on SCO's "interpretation of the primary eligible costs for this component." We disagree. Rather, we contend that the finding is based on the language contained in the parameters and guidelines adopted by CSM for this mandated program.

The city is relying on specific language that appears on page 13 of the original statement of decision adopted by the CSM on November 30, 1999, for the mandated program. The city claims that the language cited in their response supports a CSM finding that interrogations conducted during on-duty hours and preparing for those interrogations are

reimbursable. However, the statement of decision does not define the reimbursable activities. The purpose of the statement of decision 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 CSM 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 staff were issued to the 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 CSM's statement of decision. Subsequently, the reimbursable activities were written into regulation when the CSM adopted the parameters and guidelines for POBOR on July 27, 2000, and corrected them on August 17, 2000.

We re-examined the statement of decision and noted that the city is taking the language cited in their response out of context. The language cited by the city 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 section begins on page 12 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. The claimant stated the following:

"If a typical police department works in three shifts, such as the Police Department for this 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 department procedures are new requirements not previously imposed on local agencies and school districts.

Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government [sic] Code section 17514.

The city believes that the language used by the CSM in the paragraphs above support that costs incurred for interrogating officers during their regular on-duty time and preparing for those interrogations are reimbursable. We believe this to be an expanded interpretation, given that the issue under analysis in this section of the statement of decision was whether or not the test claim statute imposed the payment of overtime to the investigated employee, which it does. The city ignores the CSM's language in the beginning of this section when it 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 CSM even italicized the word "not" to make its point clear.

In addition, there is no language in this section of the statement of decision wherein the test claimant asserted that costs incurred to prepare for the interrogation of peace officers is reimbursable. Therefore, as this issue was not pled by the test claimant, the CSM did not determine that interrogation preparation costs are reimbursable.

We also re-examined CSM's staff analysis for the proposed parameters and guidelines (Item #10 for its hearing of July 27, 2000) regarding the Interrogations cost component. This document contains the following language:

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 [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 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 [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 the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code section 3303, subd. (a).)

We believe the city is trying to expand the CSM's staff analysis of the Interrogation 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 the only reimbursable activity that relates to interrogations. It states "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."

To state that interrogations conducted during an officer's regular on-duty time and preparing for those interrogations is 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 city's contention.

We also noted that CSM re-examined the issue of allowable costs under the Interrogation cost component in its December 4, 2006 final staff analysis (Item #13—Request to Amend Parameters and Guidelines), which states:

The County of San Bernardino, the City of Sacramento, and the *City of Los Angeles* [emphasis added] 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.)

This document also states:

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.

In addition, during testimony for this item, a San Bernardino County representative testified that the county had submitted an amendment to clarify what was adopted in the original statement of decision. The county representative believed the CSM staff's conclusion regarding interrogations was inconsistent with the original statement of decision. The Chief Legal Counsel for the CSM responded that some statements in the original statement of decision were being taken out of context. She clarified that the test claim legislation does not mandate local agencies to interrogate an officer and it does not mandate local agencies to investigate. Rather, these activities are based on local policy and regulation.

Adverse Comment

The city argues that the five time study activities that we found to be unallowable were for allowable activities. Similar to the discussion of unallowable costs for the administrative activities cost component, we do not dispute that these five activities are necessary and reasonable for the preparation of an adverse comment. The issue is the determination of whether the activities were eligible for reimbursement under the mandated program.

In the draft audit report, we stated the following:

The city also claimed the following five activities that are not reimbursable.

- **Preliminary:** This activity involves investigating the circumstances surrounding the adverse comment.
- **Collect:** This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the Area where the complaint was taken. This activity can include report writing, interviews, or any activity in which information is gathered for the "1.28" (complaint form).
- **Area Invest:** This activity consists of the time spent by an Area to investigate the complaint or "1.28" (complaint form). This activity occurs after the preliminary investigation.
- **Inspect:** This activity occurs when the assigned Advocate reviews the investigation for status and thoroughness.
- **RE Invest:** This activity involves the time needed to conduct any additional investigations.

In the audit report, we determined that the activity “review” was reimbursable. This activity involves the review of the complaint form and the circumstances leading to the adverse comment. By contrast, the activity “preliminary” cited above, involves the actual investigation of the adverse comment circumstances. Similarly, the activities “collect,” “area invest,” and “re invest” involve investigation of the complaint. We also determined that the activities of “adjudication” and “CO review” were reimbursable. These activities involve review of the completed complaint and the letter of transmittal by the accused officer’s supervisor and the Commanding Officer. By contrast, the activity “inspect” involves review of the investigation.

City representatives did not dispute our interpretation of these five activities during the course of audit fieldwork and did not raise any objections during the audit exit conference. Subsequent to the exit conference and draft report, the city has not presented any evidence to us that there is a distinction between the five activities cited above and the language in the parameters and guidelines stating that costs for conducting investigations are not reimbursable. In addition, the city states in the response that it does not dispute the language in the audit report that investigating a complaint, interviewing a complainant, and preparing a complaint investigation report are not reimbursable activities.

**FINDING 2—
Overstated services
and supplies**

The city claimed services and supplies costs totaling \$708,683 in FY 2003-04. However, the claimed costs were actually salary, benefit, and related indirect costs incurred for non-sworn employees. The costs were incurred to perform the same activities discussed in Finding 1. Therefore, the adjustments in this finding are attributed to the same analysis that is presented in Finding 1. We determined that \$137,415 is allowable and \$571,268 is unallowable. The costs were unallowable because the city claimed reimbursement for unallowable activities.

We reclassified the allowable costs from services and supplies to salaries, benefits, and related indirect costs. The following table summarizes the adjustments to claimed services and supplies by individual cost component:

<u>Cost Component</u>	<u>Costs Claimed</u>	<u>Costs Allowed</u>	<u>Audit Adjustment</u>
Administrative Activities:			
Salaries	\$ 70,663	\$ 14,318	\$ (56,345)
Benefits	18,008	3,648	(14,360)
Related indirect costs	28,786	5,832	(22,954)
Subtotal	117,457	23,798	(93,659)
Adverse Comment Activities:			
Salaries	355,701	68,357	(287,344)
Benefits	90,638	17,418	(73,220)
Related indirect costs	144,887	27,842	(117,045)
Subtotal	591,226	113,617	(477,609)
Total	\$ 708,683	\$ 137,415	\$ (571,268)

The parameters and guidelines (section V.A.1.—Salaries and Benefits) require that the claimants identify the employees and/or show the classification of the employees 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.

Recommendation

We recommend that the city establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

City's Response

The City claimed \$708,683 for services and supplies in its Fiscal Year (FY) 2003/04 claim. The Controller found the costs were for actual salary, benefit and related indirect costs incurred for non-sworn employees. The City agrees that these costs were for salaries and were inadvertently included in the service and supplies areas. As such, the Controller considered these costs in the appropriate salary category and treated them in the same manner as all other salaries. Other than the City's disagreement with how the Controller has interpreted the eligible activities in its Finding 1, the City has no disagreement with this finding.

SCO's Comment

The finding and recommendation remains unchanged.

**FINDING 3—
Misstated productive
hourly rates**

The city understated allowable salary and benefit costs by \$141,364 during the audit period because it overstated and understated productive hourly rates. This amount also includes \$8,442 for the salary and benefit costs claimed as services and supplies in FY 2003-04 (as noted in Finding 2). The related indirect costs totaled \$50,884. All of these adjustments were made because of errors in the city's calculation of productive hourly rates.

Productive hourly rates were erroneously misstated for all employee classifications in the city's claim for FY 2007-08. The misstatements occurred for two reasons: (1) the city used 1,800 productive hours to calculate the rates instead of its calculated productive hours; and, (2) the average annual salaries the city used in the calculations for some employee classifications did not match the rates from the city's report of average annual salaries. We recalculated the rates using the correct salary base and the correct annual productive hours provided by city staff.

We also identified errors with productive hourly rate calculations in FY 2003-04 and FY 2005-06. The city had claimed the rate for Police Services Representative I instead of Police Services Representative II.

The following table summarizes the audit adjustments:

Cost Category	Fiscal Year			Total
	2003-04	2005-06	2007-08	
Salaries	\$ 6,728	\$ 6,161	\$ 84,325	\$ 97,214
Benefits	1,714	2,373	40,063	44,150
Total direct costs	8,442	8,534	124,388	141,364
Related indirect costs	2,740	1,808	46,336	50,884
Total	\$ 11,182	\$ 10,342	\$ 170,724	\$ 192,248

The parameters and guidelines (section V.A.1.—Salaries and Benefits) require that the claimants identify the employees and/or show the classification of the employees 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.

Recommendation

We recommend that the city establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

City's Response

The Controller found the City had understated the productive hourly rates for various employee classifications in the City's FY 2007/08 claim. It also found errors with productive hourly rates in the FY 2003/04 and FY 2005/06. The Controller recalculated those rates and the result was an increase of \$192,248 in direct and indirect costs. The City concurs with this finding.

SCO's Comment

The finding and recommendation remain unchanged.

**Attachment—
City's Response to
Draft Audit Report**

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police



ANTONIO R. VILLARAIGOSA
Mayor

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 485-5296
TDD: (877) 275-5273
Ref #: 10.2

September 15, 2009

Mr. Jim L. Spano, Chief
Mandated Cost Audits Bureau
Office of the State Controller
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874

RE: Response to the August 12, 2009, Draft Audit Report for the Peace Officers Procedural Bill of Rights (POBOR) Program

Dear Mr. Spano,

This letter is the City of Los Angeles' (City) response to the August 12, 2009, Draft Audit Report of the Los Angeles Police Department's (LAPD) Peace Officers Procedural Bill of Rights Program (commencing with Chapter 4654, Statutes of 1976) for the period of July 1, 2003 through June 30, 2008. We would like to commend the State Controller's (Controller) staff on the conduct of this audit. The City has experienced several audits of its Police Department's mandated cost claims and, in this case, the Police Department reported that while it disagrees with most of the proposed disallowances, there were no surprises or misunderstandings during the conduct of the audit, unlike in previous audits. Also, we would like to indicate that the high amount of unallowable costs is attributed to the Controller and Commission on State Mandates' interpretation of the Parameters and Guidelines for the POBOR Program, not an erroneous inflation of costs by the City. What follows below are the positions held by the City on the Controller's three findings from the audit.

Finding 1 – Unallowable salaries, benefits and related indirect cost

The City claimed \$35,648,462 in salaries and benefits for the audit period. The Controller determined that \$14,183,993 is allowable and \$21,464,469 is unallowable. The costs are unallowable because the Administrative, Interrogation, and Adverse Comment Activities claimed are not identified in the Parameters and Guidelines as reimbursable costs.

Administrative Activities

The Controller determined that only \$118,411 of the \$2,864,828 is allowable because the City

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Mr. Jim L. Spano, Chief
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claimed reimbursement for unallowable activities.

The City disagrees with all of the State Controller's disallowances. It is the City's opinion that all of those activities are administrative in nature and reasonably necessary to carry out the POBOR program in such a large agency as the LAPD.

The City disagrees with what it perceives as the Controller's very narrow interpretation of the Administrative Activities component of the Commission on State Mandates' Parameters and Guidelines. When the Statement of Decision for the test claim was adopted nearly 10 years ago, there was no discussion of administrative activities for the POBOR Program. When the Parameters and Guidelines was adopted, it was assumed that, for the most part, any reasonably necessary administrative activities associated with the POBOR Program were eligible for reimbursement. A few activities, such as training, were normally addressed specifically, since the Controller often would not allow for training costs if they were specifically addressed in the Parameters and Guidelines. By including the Administrative Activities component, it is believed that the Commission intended to include anything reasonably necessary unless it was specifically excluded, such as the limitation on training for only human resources, law enforcement and legal counsel regarding the requirements of the mandate.

Interrogation Activities

The Controller determined that of the \$12,505,518 in salaries and benefits claimed for the audit period, \$1,206,216 is allowable and \$11,289,312 is unallowable. Once again, the Controller contends the City's costs were unallowable because they were for unallowable activities.

The City is appreciative of the fact the Controller allowed for the \$1,206,216 of costs which were not specifically addressed in its claims. But rather, the Controller, at its own initiative, based on the City's very detailed time study, calculated how much time was spent to conduct the five reimbursable activities it allows for as part of the Interrogation component in the parameters as noted on page ten (10) of the draft audit report.

The City, along with numerous other local agencies, disagrees with the State Controller's interpretation of the primary eligible costs for this component. The City believes the Parameters and Guidelines, as amended at the Controller's request in December 2006, do not accurately reflect the original Statement of Decision which found that eligible costs included: "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." The Controller has limited reimbursement to only officers being compensated for overtime. The City believes the costs for conducting interrogations during regular work time is reimbursable, as is preparation for those interrogations.

Adverse Comment

The City claimed \$20,278,116 in salaries and benefits for the audit period. The Controller

Mr. Jim L. Spano, Chief

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determined that \$12,849,376 is allowable and \$7,428,740 is unallowable. The costs were deemed unallowable because the City claimed reimbursement for unallowable activities.

The City identified 16 activities in its time study under this cost component. The Controller found that 11 activities were eligible for reimbursement and 5 were not. The Controller points out that the 5 activities are part of the City's investigative process and are, therefore, not reimbursable. It is the City's contention that, for the most part, the 5 activities are necessary activities to prepare the Adverse Comment and therefore should be reimbursable. The City does not dispute the Controller's statement that the revised Parameters and Guidelines (section IV(D) - Adverse Comment) state that the "investigating a complaint," "interviewing a complainant," and "preparing a complaint investigation report" are not reimbursable activities.

Finding 2 – Overstate services and supplies

The City claimed \$708,683 for services and supplies in its Fiscal Year (FY) 2003/04 claim. The Controller found the costs were for actual salary, benefit and related indirect costs incurred for non-sworn employees. The City agrees that these costs were for salaries and were inadvertently included in the service and supplies areas. As such, the Controller considered these costs in the appropriate salary category and treated them in the same manner as all other salaries. Other than the City's disagreement with how the Controller has interpreted the eligible activities in its Finding 1, the City has no disagreement with this finding.

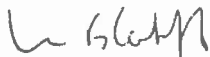
Finding 3 – Misstated productive hourly rates

The Controller found the City had understated the productive hourly rates for various employee classifications in the City's FY 2007/08 claim. It also found errors with productive hourly rates in the FY 2003/04 and FY 2005/06. The Controller recalculated those rates and the result was an increase of \$192,248 in direct and indirect costs. The City concurs with this finding.

If you have any questions concerning the City's position or request further information from the City concerning this matter, please contact Police Administrator Laura Filatoff, Commander Officer, Fiscal Operations Division, LAPD, at (213) 485-5296.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police



LAURA FILATOFF, Police Administrator
Commanding Officer
Fiscal Operations Division

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>

EXHIBIT III

**CLAIMING
INSTRUCTIONS**

OFFICE OF THE STATE CONTROLLER
STATE MANDATED COSTS CLAIMING INSTRUCTIONS NO. 2009-10
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR)
LOCAL AGENCIES
OCTOBER 5, 2009
REVISED JULY 1, 2011

In accordance with Government Code (GC) sections 17560 and 17561, eligible claimants may submit claims to the State Controller's Office (SCO) for reimbursement of costs incurred for state-mandated cost programs. This document contains claiming instructions and forms that eligible claimants can use for filing claims for the Peace Officers Procedural Bill of Rights (POBAR) program. The SCO issues these claiming instructions subsequent to adoption of the program's Parameters and Guidelines (P's & G's). The P's & G's are included as an integral part of the claiming instructions.

On July 27, 2000, the Commission on State Mandates (CSM) adopted P's & G's that listed counties, cities, school districts, and special districts that employ peace officers as eligible claimants.

On July 31, 2009, the CSM amended the decision to deny reimbursement to school districts, community college districts, and special districts that are permitted by statute but not required to employ peace officers who supplement the general law enforcement units of cities and counties. The Amended P's & G's are included as an integral part of the claiming instructions.

Exception

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

Eligible Claimants

Any city, county or special police protection district named in GC sections 17511, 17515 and 53060.7 that wholly supplants the law enforcement functions of the county within their jurisdiction is an eligible claimant.

Reimbursement Claim Deadline

An actual claim for the 2010-11 fiscal year may be filed by **February 15, 2012**, without a late penalty. **Claims filed more than one year after the filing date will not be accepted.**

Penalty

- **Initial Claims**

When filed within one year of the initial filing deadline, claims are assessed a late penalty of 10% of the total amount of the initial claim without limitation pursuant to GC section 17561, subdivision (d)(3).

- **Annual Reimbursement Claim**

When filed within one year of the annual filing deadline, claims are assessed a late penalty of 10% of the claim amount; \$10,000 maximum penalty, pursuant to GC section 17568.

Minimum Claim Cost

GC Section 17564, subdivision (a), provides that no claim may be filed pursuant to Sections 17551 and 17561, unless such a claim exceeds one thousand dollars (\$1,000), provided that a county may submit a combined claim on behalf of direct service districts or special districts within their county if the combined claim exceeds \$1,000, even if the individual direct service district's or special district's claim does not each exceed \$1,000. The county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each direct service district or special district. These combined claims may be filed only when the county is the fiscal agent for the districts. A combined claim must show the individual claim costs for each eligible district. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a direct service district or special district provides a written notice of its intent to file a separate claim to the county and to the SCO, at least 180 days prior to the deadline for filing the claim.

Reimbursement of Claims

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. These 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 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, these documents cannot be substituted for source documents.

Audit of Costs

All claims submitted to the SCO are subject to review to determine if costs are related to the mandate, are reasonable and not excessive, and if the claim was prepared in accordance with the SCO's claiming instructions and the P's & G's adopted by the CSM. If any adjustments are made to a claim, a Notice of Claim Adjustment specifying the activity adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within 30 days after payment of the claim.

On-site audits will be conducted by the SCO as deemed necessary. Pursuant to GC section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a claimant is subject to audit by the SCO no later than three years after the date the actual reimbursement claim was filed or last amended, whichever is later. However, if no funds were appropriated or no payment was made to a claimant for the program for the fiscal year for which the claim was filed, the time for the SCO to initiate an audit will commence to run from the date of initial payment of the claim.

All documents used to support the reimbursable activities must be retained during the period subject to audit. If an audit has been initiated by the SCO during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings. Supporting documents must be made available to the SCO on request.

Record Retention

All documentation to support actual costs claimed must be retained for a period of three years after the end of the calendar year in which the reimbursement claim was filed or last amended regardless of the year of costs incurred. If no funds were appropriated for initial claims at the time the claim was filed, supporting documents must be retained for three years from the date of initial payment of the claim. Therefore, all documentation to support actual costs claimed must be retained for the same period, and must be made available to the SCO on request.

Claim Submission

Submit a signed original FAM-27 and one copy with required documents. **Please sign the FAM-27 in blue ink and attach the copy to the top of the claim package.**

Mandated costs claiming instructions and forms are available online at the SCO's website: **www.sco.ca.gov/ard_mancost.html**.

Use the following mailing addresses:

If delivered by
U.S. Postal Service:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

If delivered by
other delivery services:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

If you have any questions, you may e-mail **LRSDAR@sco.ca.gov** or call the Local Reimbursements Section at (916) 324-5729.

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006
Amended: March 28, 2008
Amended: July 31, 2009

AMENDED 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

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

06-PGA-06

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

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

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

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

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

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

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

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

The Commission 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 for counties, cities, school districts, and

special districts identified in Government Code section 3301 that employ peace officers, 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.

On February 6, 2009, the Third District Court of Appeal, in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1357, determined that POBOR is not a reimbursable mandate as to school districts and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties.

On May 8, 2009, the Sacramento County Superior Court issued a judgment and writ in Case No. 07CS00079, pursuant to the Third District Court of Appeal’s decision in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, requiring the Commission to:

- a. Set aside the portion of its reconsideration decision in “Case No. 05-RL-4499-01 Peace Officer Procedural Bill of Rights” (reconsideration decision) that found that the Peace Officer Procedural Bill of Rights program constitutes a reimbursable state-mandated program for school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties;
- b. Issue a new decision denying the portion of the reconsideration decision approving reimbursement for school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties; and

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.

c. Amend the parameters and guidelines consistent with this judgment.

This judgment does not affect cities, counties, or special police protection districts named in Government Code section 53060.7, which wholly supplant the law enforcement functions of the County within their jurisdiction.

Accordingly, on July 31, 2009, the Commission amended the decision to deny reimbursement to school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, and special police protection districts named in Government Code section 53060.7 that wholly supplant the law enforcement functions of the county within their jurisdiction are eligible claimants.

School districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties are not eligible claimants entitled to reimbursement.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities and reasonable reimbursement methodology in this parameters and guidelines amendment begins on July 1, 2006.

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

1. A local agency may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

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

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

IV. REIMBURSABLE ACTIVITIES

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

For each eligible claimant, the following activities are reimbursable:

A. Administrative Activities (On-going Activities)

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

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

3. Updating the status report of mandate-reimbursable POBOR activities.

“Updating the status report of mandate-reimbursable POBOR-activities” means tracking the procedural status of the mandate-reimbursable activities only.

Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

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

The following activities and costs are reimbursable:

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

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

The following activities are **not** reimbursable:

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

The following activities and costs are reimbursable:

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

The following activities are **not** reimbursable:

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

C. Interrogations

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

⁴ Interrogations of reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff

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).)

Preparation and review of overtime compensation requests are reimbursable.

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

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

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

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

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a. The further proceeding is not a disciplinary action;
 - b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty

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.)

interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);

- c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):

a) When the investigation does not result in disciplinary action; and

b) When the investigation results in:

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

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

The following activities are **not** reimbursable:

1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
2. Investigation activities, including assigning an investigator to the case, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses.

3. Preparing for the interrogation, reviewing and preparing interrogation questions, conducting the interrogation, and reviewing the responses given by the officer and/or witness during the interrogation.
4. Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

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

Counties

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

Cities and Special Police Protection Districts

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

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.)

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

The following adverse comment activities are reimbursable:

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

The following activities are **not** reimbursable:

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

V. CLAIM PREPARATION AND SUBMISSION

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

A. Reasonable Reimbursement Methodology

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

1. Definition

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

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

2. Formula

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

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

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

B. ACTUAL COST CLAIMS

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

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

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

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

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

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

1. Direct Cost Reporting

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

a. Salaries and Benefits

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

b. 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.

c. 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.

d. 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.

e. 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 B. 1. a. Salaries and Benefits, for each applicable reimbursable activity.

f. 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 B.1.a, Salaries and Benefits, and B.1.b, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element B.1.c, Contracted Services.

2. Indirect Cost Rates

a. 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 2 CFR Part 225 (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 2 CFR Part 225 (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225 (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:

- i. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (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
- ii The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (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.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the application of a reasonable reimbursement methodology

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

must also be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM 4499) and the Statement of Decision on Reconsideration (05-RL-4499-01) are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim, and in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355. The administrative record, including the Statement of Decision and the Statement of Decision on Reconsideration, is on file with the Commission.

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) CLAIM FOR PAYMENT			For State Controller Use Only		PROGRAM 187	
			(19) Program Number 00187 (20) Date Filed (21) LRS Input			
(01) Claimant Identification Number			Reimbursement Claim Data			
(02) Claimant Name			(22) FORM 1, (04)			
County of Location			(23) FORM 1, (05)			
Street Address or P.O. Box		Suite	(24) FORM 1, (06)(A)(g)			
City	State	Zip Code	(25) FORM 1, (06)(B)(g)			
		Type of Claim	(26) FORM 1, (06)(C)(g)			
		(03) (09) Reimbursement <input type="checkbox"/>	(27) FORM 1, (06)(D)(g)			
		(04) (10) Combined <input type="checkbox"/>	(28) FORM 1, (08)			
		(05) (11) Amended <input type="checkbox"/>	(29) FORM 1, (09)			
Fiscal Year of Cost		(06)	(12)	(30) FORM 1, (11)		
Total Claimed Amount		(07)	(13)	(31) FORM 1, (12)		
Less: 10% Late Penalty (refer to attached Instructions)			(14)	(32)		
Less: Prior Claim Payment Received			(15)	(33)		
Net Claimed Amount			(16)	(34)		
Due from State	(08)	(17)	(35)			
Due to State		(18)	(36)			
(37) CERTIFICATION OF CLAIM In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code. I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant. The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Signature of Authorized Officer _____ _____ Type or Print Name and Title of Authorized Signatory </div> <div style="width: 45%;"> Date Signed _____ Telephone Number _____ E-Mail Address _____ </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> (38) Name of Agency Contact Person for Claim _____ Name of Consulting Firm / Claim Preparer _____ </div> <div style="width: 45%;"> Telephone Number _____ E-mail Address _____ Telephone Number _____ E-mail Address _____ </div> </div>						

PROGRAM 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) CLAIM FOR PAYMENT INSTRUCTIONS	FORM FAM-27
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- (01) Enter the claimant number assigned by the State Controller's Office.
- (02) Enter claimant official name, county of location, street or postal office box address, city, State, and zip code.
- (03) to (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) Not applicable
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed.
- (13) Enter the amount of the reimbursement claim as shown on Form 1 line (13). The total claimed amount must exceed \$1,000; minimum claim must be \$1,001.
- (14) Initial claims must be filed as specified in the claiming instructions. Annual reimbursement claims must be filed by **February 15** of the following fiscal year in which costs were incurred or the claims must be reduced by a late penalty. Enter zero if the claim was filed on time. Otherwise, enter the penalty amount as a result of the calculation formula as follows:
- Late Initial Claims: FAM-27 line(13) multiplied by 10%, without limitation; or
 - Late Annual Reimbursement Claims: FAM-27, line (13) multiplied by 10%, late penalty not to exceed \$10,000.
- (15) Enter the amount of payment, if any, received for the claim. If no payment was received, enter zero.
- (16) Enter the net claimed amount by subtracting the sum of lines (14) and (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form 1, (06)(A)(g), means the information is located on Form 1, line (06)(A), column (g). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the process.**
- (37) Read the statement of Certification of Claim. The claim must be dated, signed by the district's authorized officer, and must type or print name, title, date signed, telephone number, and email address. **Claims cannot be paid unless accompanied by an original signed certification. (Please sign the FAM-27 in blue ink and attach the copy to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the agency contact person for the claim. If the claim was prepared by a consultant, type or print the name of the consulting firm, the claim preparer, telephone number, and e-mail address.

SUBMIT A SIGNED ORIGINAL FAM-27 AND ONE COPY WITH ALL OTHER FORMS TO:

Address, if delivered by U.S. Postal Service:

**OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 P.O. Box 942850
 Sacramento, CA 94250**

Address, if delivered by other delivery service:

**OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 3301 C Street, Suite 700
 Sacramento, CA 95816**

PROGRAM 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) CLAIM SUMMARY						FORM 1	
(01) Claimant				(02)		Fiscal Year 20__/20__		
(03) Department								
Claim Statistics								
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year								
Flat Rate Method								
(05) Total Cost						[Line (04) X \$41.64 for 2010-11 fy] [Skip (06) to (09) and carry forward total to line (10)]		
Actual Cost Method								
Direct Costs		Object Accounts						
		(a)	(b)	(c)	(d)	(e)	(f)	(g)
(06) Reimbursable Activities		Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total
(A) Administrative Activities								
(B) Administrative Appeal								
(C) Interrogations								
(D) Adverse Comment								
(07) Total Direct Costs								
Indirect Costs								
(08) Indirect Cost Rate						[From ICRP or 10%] %		
(09) Total Indirect Costs						[Refer to claiming instructions]		
(10) Total Direct and Indirect Costs						[Refer to claiming instructions]		
Cost Reduction								
(11) Less: Offsetting Revenues								
(12) Less: Other Reimbursements								
(13) Total Claimed Amount						[Line (10) - {(line (11) + line (12))}]		

- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form 1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**

Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Cost Method**

Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).

Actual Cost Method: Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Revenues. If applicable, enter any revenue received by the claimant for this mandate from any state or federal source.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. From Total Direct and Indirect Costs, line (10), subtract the sum of Offsetting Revenues, line (11), and Other Reimbursements, line (12). Enter the remainder on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

PROGRAM <div style="font-size: 2em; font-weight: bold;">187</div>	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) ACTIVITY COST DETAIL	FORM <div style="font-size: 2em; font-weight: bold;">2</div>
(01) Claimant _____		(02) _____ Fiscal Year 20__ / 20__
(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.		
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Administrative Activities </div> <div> <input type="checkbox"/> Interrogations </div> </div> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Administrative Appeal </div> <div> <input type="checkbox"/> Adverse Comment </div> </div>		
(04) Description of Expenses		Object Accounts
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity
(d) Salaries	(e) Benefits	(f) Materials And Supplies
(g) Contract Services	(h) Fixed Assets	(i) Travel And Training
(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ____ of ____		

PROGRAM 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) ACTIVITY COST DETAIL INSTRUCTIONS	FORM 2
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For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name and Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked.						
Benefits	Activities Performed	Benefit Rate			Benefits= Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
Training	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

EXHIBIT IV

REIMBURSEMENT

CLAIMS

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS			For State Controller Use Only (19) Program Number 00187 (20) Date Filed ___/___/___ (21) LRSInput ___/___/___		Program 187
(01) Claimant Identification Number <div style="text-align: center;">9819487</div>			Reimbursement Claim Data		
(02) Claimant Name <div style="text-align: center;">Los Angeles Police Department</div>			(22) <div style="text-align: center;">PPBR-1,(03)(a)</div>		
County of Location <div style="text-align: center;">Los Angeles</div>			(23) <div style="text-align: center;">PPBR-1,(03)(b)</div>		5,394
Street Address or P.O. Box <div style="text-align: center;">150 North Los Angeles Street, Room 712</div>			(24) <div style="text-align: center;">PPBR-1,(03)(c)</div>		5,394
City State Zip Code <div style="text-align: center;">Los Angeles CA 90012</div>			(25) <div style="text-align: center;">PPBR-1,(03)(d)</div>		
Type of Claim	Estimated Claim	Reimbursement Claim	(26) <div style="text-align: center;">PPBR-1,(04)(1)(e)</div>		603,199
	(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27) <div style="text-align: center;">PPBR-1,(04)(2)(e)</div>		
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28) <div style="text-align: center;">PPBR-1,(04)(3)(e)</div>		2,349,667
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29) <div style="text-align: center;">PPBR-1,(04)(4)(e)</div>		9,257,138
Fiscal Year of Cost	(06) <div style="text-align: center;">2004-2005</div>	(12) <div style="text-align: center;">2003-2004</div>	(30) <div style="text-align: center;">PPBR-1,(06)</div>		62
Total Claimed Amount	(07) <div style="text-align: center;">\$14,080,100</div>	(13) <div style="text-align: center;">\$17,600,125</div>	(31) <div style="text-align: center;">PPBR-1,(07)</div>		5,390,122
LESS: 10% Late Penalty		(14)	(32) <div style="text-align: center;">PPBR-1,(09)</div>		
LESS: Estimated Claim Payment Received		(15)	(33) <div style="text-align: center;">PPBR-1,(10)</div>		
Net Claimed Amount		(16) <div style="text-align: center;">\$17,600,125</div>	(34)		
Due from State	(08) <div style="text-align: center;">\$14,080,100</div>	(17) <div style="text-align: center;">\$17,600,125</div>	(35)		
Due to State		(18)	(36)		
(37) CERTIFICATION OF CLAIM In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under the penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 through 1098, inclusive. I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant. The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Signature of Authorized Officer <div style="border-top: 1px solid black; margin-top: 10px;"> Laura Filatoff <small>Print or type name</small> </div> </div> <div style="width: 45%;"> Date <div style="border-top: 1px solid black; margin-top: 10px;"> Police Administrator <small>Title</small> </div> </div> </div> <div style="margin-top: 10px;"> (38) Name of Contact Person for Claim <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Ginger Wilhite MAXIMUS </div> <div style="width: 45%;"> Telephone Number (916)485-8102 E-mail Address gingerwilhite@maximus.com </div> </div> </div>					

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY				FORM PPBR-1
(01) Claimant: Los Angeles Police Department		(02) Fiscal year costs were incurred: 2003-2004			
Claim Statistics					
(03) (a) Number of cases in process at the beginning of the fiscal year					
(b) Number of new cases added during the fiscal year					5394
(c) Number of cases completed or closed during the fiscal year					5394
(d) Number of cases in process at the end of the year					
Direct Costs					
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	d) Travel and Training	(e) Total
1. Administrative Activities	\$370,032	\$115,709	\$117,457		\$603,199
2. Administrative Appeal					
3. Interrogations	\$1,789,950	\$559,717			\$2,349,667
4. Adverse Comment	\$6,601,594	\$2,064,318	\$591,226		\$9,257,138
(05) Total Direct Costs	\$8,761,576	\$2,739,745	\$708,683		\$12,210,004
Indirect Costs					
(06) Indirect Cost Rate (From ICRP)	Salary and Wages				61.52%
(07) Indirect Costs	[Line (06) x Line (05)(a)]				\$5,390,122
(08) Total Direct and Indirect Costs	[Line (05)(e) + Line (07)]				\$17,600,125
Cost Reductions					
(09) Less Offsetting Savings, if applicable					
(10) Less Other Reimbursements, if applicable					
(11) Total Claimed Amount:	{Line(08)- [Line (09) + Line(10)]}				\$17,600,125

Revised 09/03

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL	FORM PPBR-2						
(01) Claimant: Los Angeles Police Department		(02) Fiscal year costs were incurred: 2003-2004						
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<div style="display: flex; justify-content: space-between;"> <div> <input checked="checked" type="checkbox"/> Administrative Activities <input type="checkbox"/> Interrogations </div> <div> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Adverse Comment </div> </div>								
(04) Description of Expense: Complete columns (a) through (g)								
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g) Object Accounts		
						Salaries	Benefits	Total Sal. & Bens
The City of Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The following staff spent time performing Administrative Activities related to the POBAR process. This includes updating the status of the POBAR cases.								
Captain II	\$79.37	31.27%	647.28			\$51,376	\$16,065	\$67,441
Captain III	\$85.07	31.27%	916.98			\$78,012	\$24,394	\$102,406
Lieutenant	\$64.43	31.27%	107.88			\$6,950	\$2,173	\$9,124
Lieutenant II	\$68.16	31.27%	161.82			\$11,029	\$3,449	\$14,478
Sergeant I	\$54.67	31.27%	269.70			\$14,746	\$4,611	\$19,357
Sergeant II	\$58.10	31.27%	647.28			\$37,606	\$11,759	\$49,365
Detective II	\$54.98	31.27%	1186.68			\$65,249	\$20,403	\$85,653
Detective III	\$60.87	31.27%	1726.08			\$105,063	\$32,853	\$137,917
Sr. Clerk Typist**	\$29.26	25.48%	701.22	\$34,098				
Clerk Typist**	\$23.73	25.48%	647.28	\$25,530				
Principal Clerk Police II**	\$35.84	25.48%	970.92	\$57,829				
Total Cases								
<div style="border: 1px solid black; display: inline-block; padding: 2px 10px;">5394</div>								
**The indirect cost rate for civilian employees is 40.73%, applied to salaries only. These totals are placed in the "Services and Supplies" column. The civilian benefit rate is 25.48% <u>Please see attached FTE calculations.</u> Civilian 1601 hours Sworn 1621 hours The agency named above has made every effort not to include costs relating to the "Skelly Process".								
(05) Total () Subtotal ()				\$117,457		\$370,032	\$115,709	\$485,742

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Program
187

**MANDATED COSTS
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
COMPONENT / ACTIVITY COST DETAIL**

**FORM
PPBR-2**

(01) Claimant: Los Angeles Police Department

(02) Fiscal year costs were incurred:

2003-2004

(03) Reimbursable Components: Check ONLY one box per form to identify the component being claimed.

☐ Administrative Activities

☒ Administrative Appeal

☐ Interrogations

☐ Adverse Comment

(04) Description of Expense: Complete columns (a) through (g)

Object Accounts

(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
The above mentioned individuals spent time in meetings to review and hear the administrative appeals. The review of various documents was necessary to commence and proceed with the administrative hearing.								
The agency named above has made every effort not to include costs relating to the "Skelly Process".								

(05) Total () Subtotal ()

Page: ____ of ____

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: Los Angeles Police Department				(02) Fiscal year costs were incurred: 2003-2004				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input checked="" type="checkbox"/> Interrogations			<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)						Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
<p>The City of Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i></p> <p>The following staff spent time providing prior notice to the peace officer under investigation regarding the nature of the interrogation. This includes reviewing the complaints to prepare the notice of interrogation, determining the investigating officers, prep. of notice, and presentation of complaint to the peace officer.</p>								
Detective I	\$51.23	31.27%	3662.53			\$187,618	\$58,668	\$246,287
Detective II	\$54.98	31.27%	4045.50			\$222,441	\$69,557	\$291,999
Detective III	\$60.87	31.27%	3409.01			\$207,500	\$64,885	\$272,386
Sergeant I	\$54.67	31.27%	3894.47			\$212,928	\$66,583	\$279,511
Sergeant II	\$58.10	31.27%	4514.78			\$262,302	\$82,022	\$344,324
Lieutenant I	\$64.43	31.27%	5458.73			\$351,694	\$109,975	\$461,669
Total Cases	5394							
<p>The following staff represents witness and subject time spent in interrogations.</p>								
Peace Officer II - Witness .41/hr per case (23%)	\$42.23	31.27%	2211.54			\$93,395	\$29,205	\$122,600
Peace Officer II -Subject - 1.375/hr per case (77%)	\$42.23	31.27%	5968.88			\$252,070	\$78,822	\$330,893
<p>77% of the total time is spent on the subject officer. 1053 cases were backed out which represent the cases which resulted in discipline. <u>Please see attached FTE calculations.</u></p> <p>Civilian 1601 hours Sworn 1621 hours</p> <p>The agency named above has made every effort not to include costs relating to the "Skelly Process".</p>								
(05) Total () Subtotal ()				Page: ____ of ____		\$1,789,950	\$559,717	\$2,349,667

Revised 09/03

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: Los Angeles Police Department				(02) Fiscal year costs were incurred: 2003-2004				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input checked="" type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)						Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
The City of Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The above individuals spent time reviewing the circumstances or documentation leading to an adverse comment, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to the officer and notification concerning rights regarding the same; review of response and attaching same to adverse comment.								
Lieutenant I	\$64.43	31.27%	64188.60			\$4,135,535	\$1,293,182	\$5,428,717
Lieutenant II	\$68.16	31.27%	5016.42			\$341,910	\$106,915	\$448,825
Captain I	\$73.33	31.27%	2427.30			\$177,992	\$55,658	\$233,650
Captain II	\$79.37	31.27%	3506.10			\$278,287	\$87,020	\$365,308
Captain III	\$85.07	31.27%	3074.58			\$261,569	\$81,793	\$343,362
Sergeant I	\$54.67	31.27%	10949.82			\$598,677	\$187,206	\$785,883
Sergeant II	\$58.10	31.27%	3613.98			\$209,967	\$65,657	\$275,623
Detective I	\$51.23	31.27%	269.70			\$13,816	\$4,320	\$18,136
Detective II	\$54.98	31.27%	5016.42			\$275,827	\$86,251	\$362,078
Detective III	\$60.87	31.27%	3937.62			\$239,676	\$74,947	\$314,623
Police Officer II	\$42.23	31.27%	1618.20			\$68,338	\$21,369	\$89,707
Clerk Typist**	\$23.73	25.48%	269.70	\$10,638				
Sr. Clerk Typist**	\$29.26	25.48%	2049.72	\$99,669				
Police Service Representative**	\$28.05	25.48%	1995.78	\$93,062				
Management Analyst II**	\$43.35	25.48%	4045.50	\$291,473				
Principal Clerk Police II**	\$35.84	25.48%	1618.20	\$96,384				
Total Cases			5394					
**The indirect cost rate for civilian employees is 40.73%, applied to salaries only. These totals are placed in the "Services and Supplies" column. The civilian benefit rate is 25.48% <u>Please see attached FTE calculations.</u> Civilian: 1601 hrs Sworn: 1621 hours								
(05) Total () Subtotal ()				Page: ____ of ____	\$591,226	\$6,601,594	\$2,064,318	\$8,665,912

Revised 09/03

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: DEC 19 2003

MEMORANDUM NO. 03-055

TO: All City Office/Department Heads

FROM: Marcus Allen, Chief Deputy Controller *MA*

SUBJECT: 2003-04 INDIRECT COST RATES—COST ALLOCATION PLAN (CAP) 26

Attached are Cost Allocation Plan (CAP) 26 indirect cost rates and instructions on their use. **These published rates did not change from the interim rates distributed on September 3, 2003.** These rates must be used in all new applications, contracts, and billings for grant activities and to compute overhead amounts to be included with fees for special services during 2003-04. The rates have not changed since our September 3rd memo. The only difference is that the rates have been approved by U.S. Department of Health and Human Services under contract with our cognizant federal agency, the U. S. Department of Housing and Urban Development. This list of rates is also available through the Controller's web page on the City's Intranet.

Your Department's CAP rate must be modified if you directly charge to a grant or fee payer any of the costs, or if the grantor or fee payer directly provides any of the services, listed on Attachment C. For example, if you include postage as a direct cost; or if you purchase a computer and the total cost is paid directly by a fee payer or grantor, your CAP rate must be reduced to avoid double billing for the directly charged item(s). This means: if the entity you are billing provides office space, telephone service, computers, vehicles, or any other item listed on Attachment C, you **must** adjust your rates to exclude those items. Contact the CAP Office for adjusted rates if any cost listed in Attachment C is directly billed to grants or fees, or if your client provides any of the listed services.

Our external auditors also audited Department Administration and Support rates; but they still must be separately approved by your grantor agencies.

Do not apply the attached indirect cost rates to overtime charges. Whether grant work may be done on overtime depends on the grantor and the regulations governing a particular grant; however, CAP staff has a method approved by the City's cognizant federal agency for computing overtime rates. Contact the CAP staff for assistance in computing overtime rates. For those part time employees who are not eligible for retirement and other benefits, use only the Central Service and Department Administration rates. Contact CAP staff for adjusted Fringe Benefit rates covering only Medicare, PST, Workers' Compensation and Unemployment for such part time employees.

In addition to the four rates calculated by the CAP Unit, departments are requested to calculate and charge internal section or division overhead rates for supervision and support costs, if these costs are not directly charged to fees or grants. Division or section overhead costs are not included in the Department Administration and Support rates. (Please see Attachment C, paragraphs 3 and 4 for further explanation.) Grantors must approve rates for section or division overhead separately. Please contact CAP staff for assistance in calculating these rates, to maintain consistency and insure that section or division overhead costs do not overlap the costs included in the Department Administration and Support rate.

Questions regarding the Cost Allocation Plan or indirect cost rates may be directed to Donna Watridge at 978-7321 or Stefanie Van Reyn at 978-7309.

Attachments: A - INDIRECT COST RATES
B - INSTRUCTIONS

C - COSTS INCLUDED IN RATE CALCULATIONS
D - USING INDIRECT COST RATES IN
CONJUNCTION WITH CHARGE BACK

MA:DW

CAP-RATES26R

COST ALLOCATION PLAN 26 (CAP 26) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2003-04. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
AGING:					
Balance of Department	20.39%	73.62%	na	*	19.98%
Title V	15.45%	4.00%	na	*	1.98%
ANIMAL SERVICES	26.69%	22.25%	31.96%	*	17.87%
BUILDING & SAFETY	17.38%	21.18%	18.24%	*	18.31%
CITY ADMINISTRATIVE OFFICER (OARS):					
CRA, Petroleum Admin., Proprietary, Capital Projects (Phy. Plant)	11.94%	33.81%	42.51%	*	17.52%
Disaster Grants Coordination	17.38%	51.68%	50.28%	*	17.52%
CITY ATTORNEY:					
Criminal	15.45%	14.51%	5.76%	*	17.85%
Direct Billed - User's Site (Proprietary Depts.)	14.20%	2.60%	9.62%	*	17.85%
Direct Billed - In City Space	11.42%	5.77%	-1.88%	*	17.85%
CITY CLERK:					
Elections	37.71%	67.49%	33.32%	*	8.49%
Land Records	24.55%	166.95%	76.51%	*	18.54%
COMMISSION FOR CHILDREN, YOUTH AND THEIR FAMILIES	18.27%	115.58%	26.22%	*	17.66%
COMMISSION ON STATUS OF WOMEN	18.72%	86.87%	24.51%	*	15.36%
COMMUNITY DEVELOPMENT:					
Balance of Department	16.82%	17.23%	na	*	18.41%
As Needed Employees	6.88%	5.57%	na	*	n/a
CONTROLLER:					
Direct Billed (at User's site)	12.37%	1.70%	61.68%	*	19.28%
Direct Billed (in City space)	18.31%	67.70%	122.68%	*	19.28%
CULTURAL AFFAIRS	26.55%	94.54%	41.93%	*	16.58%
DEPARTMENT on DISABILITY	16.54%	36.12%	32.86%		19.29%
EL PUEBLO	18.38%	24.11%	26.81%	*	21.28%
EMERGENCY PREPAREDNESS DEPT					
Em. Prep. Policy & Public info.	13.16%	87.03%	53.29%		n/a
ENVIRONMENTAL AFFAIRS:					
Policy/Public Information	15.11%	72.90%	33.45%	*	20.82%

COST ALLOCATION PLAN 26 (CAP 26) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2003-04. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
FINANCE, OFFICE OF Tax & Permit	13.81%	32.85%	10.94%		19.52%
FIRE:					
Civilian	23.55%	20.17%	17.93%	*	22.06%
Sworn (Firefighters)	29.11%	19.90%	11.23% a.	*	26.14%
			8.41% b.		
			19.64% c.		
			Combined Dept. Admin. & Support Rate, including Field Support Rate		
				Field Support Rate, Sworn only **	
GENERAL SERVICES:					
Materials Testing	18.11%	20.93%	9.86%	*	18.32%
Print Shop	24.13%	41.18%	10.40%	*	21.75%
HOUSING:					
Grant-Funded Housing	11.89%	12.61%	na	*	18.17%
Rent Control	17.87%	18.72%	na	*	18.17%
Internal Administration	15.99%	14.13%	na	*	18.17%
HUMAN RELATIONS COMMISSION	20.14%	90.32%	41.78%	*	19.89%
LIBRARY	22.85%	42.35%	28.04%	*	19.05%
LOS ANGELES CONVENTION CENTER	20.74%	19.76%	46.92%	*	20.26%
MAYOR:					
Executive/Policy	22.23%	53.55%	25.97%	*	15.45%
Grant Funded/Spec. Programs	24.38%	50.90%	16.04%	*	18.97%
Direct in City Space	62.48%	86.25%	28.90%	*	15.45%
NEIGHBORHOOD EMPOWERMENT	20.50%	50.77%	96.22%		0.105921029
PERSONNEL:					
Custody Care (Jails)	24.74%	17.33%	23.92%	*	20.01%
Personnel Grant Funded/Spec. Programs	21.54%	25.55%	37.60%	*	20.01%
PLANNING	16.45%	44.47%	34.11%	*	18.95%
POLICE:					
Civilian	25.48%	17.60%	23.13%	*	23.19%
Sworn	31.27%	25.03%	36.49% a.	*	27.13%
			27.89% b.		
			64.38% c.		
			Combined Dept. Admin. & Support Rate, including Field Support Rate		
				Field Support Rate, Sworn only **	

****NOTE:** For Fire and Police, the Field Support rate (line b.) captures overhead costs that are in addition to other Administrative and Support Costs. It has been added to the Department Administration rate on this schedule. Please use this combined rate (line c.) for sworn positions in field operations. For other, non-field sworn positions, do NOT use the Field Support rate; use only the regular Department Administration rate (line a.), together with the other (Fringe, Central Service and CTO) rates.

COST ALLOCATION PLAN 26 (CAP 26) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2003-04. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
PUBLIC WORKS, Board Office:					
Public Services	16.10%	89.41%	26.54%		18.63%
PW - Contract Administration:					
Construction Inspection	15.27%	10.92%	11.56%	61.10%	16.65%
PW - Engineering:					
Stormwater Facilities Engineering	14.74%	15.37%	26.49%	46.57%	18.38%
Wastewater Facilities Engineering	13.39%	25.88%	26.01%	57.62%	18.38%
Privately Financed & Assessment	18.69%	34.31%	26.76%	79.02%	18.38%
Street Improvements	30.40%	42.33%	26.20%	46.61%	18.38%
Municipal Facilities	19.11%	36.16%	26.53%	60.34%	18.38%
General Mapping & Survey	13.67%	18.14%	25.38%	150.09%	18.38%
PW - Sanitation					
Solid Waste Program	26.77%	95.91%	10.33%	*	21.72%
Wastewater/Stormwater Division	21.47%	31.58%	6.41%	*	21.72%
PW - Street Lighting	19.37%	68.26%	25.29%	*	20.85%
PW - Street Services	23.43%	69.65%	12.39%	*	25.90%
Street Maint General				99.93%	28.03%
Street Use Inspection				43.70%	21.25%
Lot Cleaning				187.43%	27.87%
Street Tree Division				101.78%	27.90%
Street Maint Administration					25.17%
ST MNT Facilities Maintenance					28.80%
Street Maint Executive					23.49%
Resurf & Reconstr Div				112.35%	26.53%
Special Proj Constr Div				80.92%	26.10%
Street Improvement Div				49.33%	22.97%
RECREATION & PARKS	30.97%	39.08%	14.17%	*	25.57%
TRANSPORTATION	25.05%	32.91%	17.32%	*	22.04%
TREASURER					
Cash Management & Street Bonds	19.59%	76.32%	11.43%		19.52%
Zoo Department	21.30%	18.15%	21.36%	*	23.39%

These ten Division Overhead rates, calculated by St. Services, assume that Equipment is billed as a direct cost. When such is done, the Central Services rate will be reduced to exclude the directly billed equipment.

Notes:

* Division Overhead includes costs of division heads, section supervisors, clerical and other support staff within divisions or sections. These costs are not part of the Department Administration rate, but are legitimate costs which should be recovered if allowed by your grantor. If these costs are not charged directly to a grant, a Division Overhead indirect cost rate should be calculated. To maintain consistency and insure that Division Overhead costs do not overlap with Department Administration costs, please contact CAP staff for assistance in calculating these rates. Public Works Division Overhead rates are computed by Public Works staff and published herein as a courtesy.

Instructions for Using Indirect Cost Rates

Modifying the rates. Usually departments use the CAP rates as published; however, situations may arise necessitating revision of the rates. **Your Department's CAP rate should be modified if your Department directly charges to a grant or fee payer any of the indirect costs, or if the grantor or fee payer directly provides any of the services listed on Attachment C.** This list includes charge back items. For example, if you include postage (a charge back item) as a direct cost; or if you purchase a computer and the total cost is paid directly by a fee payer or grantor, your CAP rate must be reduced to avoid double billing for the directly charged item(s). This means: if the entity you are billing provides office space, telephone service, computers, vehicles, or any other item listed on Attachment C, your rates must be adjusted to exclude those items.

An example of the necessity for rate modification is the Police Department's bill to the Airports Department. Airports provides space, utilities, telephones and equipment for Police Department staff at the Airport substation. To properly bill the Airports Department for law enforcement services at this site, the Police Department indirect cost rates are revised to exclude the building use, building lease, equipment use, and telephone line items.

Also, please see Attachment D for further explanation of using CAP rates in conjunction with charge back costs. Contact the CAP Office for adjusted rates if any cost listed in Attachment C is directly billed to grants or fees, or if any of the listed services are provided by your client.

Using the rates as published. The CAP indirect cost rates are computed based on "gross annual salaries" **excluding** overtime. (For rates applicable to overtime salaries, please contact the CAP office.) Compensated time off (CTO) is included in this gross salaries base. (See Attachment C paragraph 5 for a definition of CTO.) The CAP Fringe Benefits, Central Services, and Department Administration indirect cost rates, therefore, must be applied to salaries which include CTO and exclude overtime. Please refer to the example below, where:

Fringe Benefits Rate	=	28.10%	of Gross Salaries
Central Services Rate	=	39.77%	of Gross Salaries
Department Administration & Support Rate	=	18.87%	of Gross Salaries
Compensated Time Off Rate	=	16.26%	of Net Salaries

1. Assume Gross Salaries = \$ 1,000.00 *(Gross Salaries are salaries for straight time worked plus Compensated Time Off.)*

Given the above-listed indirect cost rates, and assuming your CTO costs are included in your salaries as billed, total indirect costs are calculated below:

a.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost
b.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost
c.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost
Sum of (a + b + c) =								\$ 867.40

2. Assume Net Salaries = \$ 860.14 *(Net Salaries are salaries for straight time worked, not including Compensated Time Off. Such net salaries would typically be accumulated through direct charges in a cost accounting system.)*

Convert net salaries to gross salaries by adding CTO % of Net:

a.	Net Salary times CTO %:	\$	860.14	x	16.26%	=	\$	139.86	= CTO Amount
b.	Net Salary plus CTO amt:	\$	860.14	+	\$	139.86	=	\$	1,000.00 = Gross Salaries

The rest of the calculation proceeds as in 1, above, using the calculated Gross Salaries figure and applying the indirect cost rates. In order to recover the CTO cost, you must either report the gross salaries that result from the computation in #2 above, or you must separately bill your CTO costs.

REMINDER: CTO rates are to be used only when paid time off such as sick and vacation time are not directly charged to a special service or grant project. Please see Attachment C, paragraph 5 for further information.

COST ALLOCATION PLAN 26 INDIRECT COSTS INCLUDED IN RATE CALCULATIONS**1. Fringe Benefits Rate includes the department's share of the Citywide costs of:**

Retirement (Civilians)	Employee Assistance	Union Sponsored Benefits
Pensions (Fire/Police Sworn)	Ordinance Life Insurance	Unused Sick/Vacation Payout
FLEX Benefit Program	Medicare	Unemployment Insurance
- Health Insurance	Social Security	Workers' Compensation
- Dental Insurance	Part Time/Seasonal/Temporary	Hiring Hall Fringe
- Basic Life Insurance	(PST) 457 Retirement Plan	

2. Central Services Rate includes the department's share of the Citywide costs of:

Building Leases [GSD & Spec. Funds]	Equipment Use Allowance (items costing \$5,000 & above)	
Building Use Allowance	Equipment Exp. Under \$5,000 (computers & equ. Costing under \$5,000)	
Computer Assets Depreciation (items costing \$5,000 & above)	Gas (Natural Gas Utility) [GSD]	Liability Claims
Communications Lease (Telephone bill)	Insurance on bond-financed assets	Petroleum Products [GSD]
	General City Purposes [League Dues and audits]	Vehicle Depreciation
		Water & Electricity

City Administrative Officer (CAO, formerly OARS)	COUNCIL & CLA	GENERAL SERVICES
Budget		Building Services
Employee Relations & Living Wage	EMPLOYEE RELATIONS BOARD	Construction Division
Gen. Support (Finance, Systems, Productivity)		Fleet Services
Dept Liaison/ Mgt. Analysis	ENVIRONMENTAL AFFAIRS	Assets Management (Leasing & Real Estate)
Municipal Facilities Projects	Environmental Coordination	Mail & Messenger
		Parking Services
		Supply Services

CITY ATTORNEY	INFORMATION TECHNOLOGY	
Civil Liability	AGENCY (ITA)	FINANCE (formerly TREASURER)
Employee Relations	IT Services	Custody & Disbursement
Municipal Counsel / Legis. Svcs.	Communications Division	& Debt Administration
Land Use	Telecommunications (PPEB)	Risk Management & Safety
Police Division		

	MAYOR	PENSIONS: OVERHEADS ALLOCATED
	Department Liaison &	TO PENSIONS. (Other Pension
	Grants Citywide Coordinator	costs included in Fringe Benefits)

CITY CLERK
Council and Public Services
Records Management

CITY ETHICS COMMISSION

PERSONNEL
Workers' Compensation
Personnel Balance of Dept.

CERS: OVERHEADS ALLOCATED
TO CERS. (Other CERS
costs included in Fringe Benefits)

CONTROLLER
Accounts Payable
Budget & General Acctg.
CAP
FMIS
Internal Audit
Payroll (incl. Fiscal Systems)
Single Audit
Workers' Compensation

PUBLIC WORKS
Financial Management and
Personnel Services
Board Office
Contract Admin: Off of Contr. Compl.
Engineering: General Engineering

EMERGENCY OPERATIONS
ORGANIZATION

INDIRECT COSTS INCLUDED IN CAP 26 RATE CALCULATIONS (continued)

3. Department Administration and Support Rate includes costs of support functions within a department:

The rate includes expenditures which: --- benefit the department as a whole
 --- are NOT directly charged to a grant or fee program
 --- are NOT line operations.

Expenditures include those of:

Accounting staff	Department Management (Gen. Mgr. & Asst. Gen. Mgrs)
Budget staff	Clerical Staff/word processing staff serving the entire department.
Payroll staff	Systems Staff (if serving the whole department, not a special project)
Personnel & training staff	Warehouse/inventory/stores staff
Inventory staff	Vehicle maintenance staff (Police & Fire only)

NOTE: The support costs discussed here must conform to Federal definitions of allowable overhead costs and are not necessarily the same as the City's General Administration and Support Program (GASP) in a departmental budget.

4. Division Overhead Rates include the costs of support functions within divisions:

The rate includes the salary and expenses of division heads, section supervisors, and other support within divisions which are not included in the Department Administration costs discussed above. For example, within the Bureau of Engineering, the City Engineer, Deputies, their secretaries and the Administration Division are included in the Department Administration indirect cost rate. Within operating divisions, division heads, assistant division heads, and their secretaries and division support staff are NOT included in the Department Administration rate.

To recover the overhead costs within a division, a department or bureau should directly charge the time of the division head, secretary, assistant division head, and other division support services to a project, or calculate an indirect cost rate to recover their costs. Please work with the CAP office when calculating such rates, to insure that Division Overhead costs do not overlap Department Administration costs.

5. Compensated Time Off Rate includes the salary paid to employees who are on paid leave such as:

Sick Leave	Jury Duty	Floating Holiday
Vacation	Bereavement leave	Injury on Duty
Holiday	Preventive Medicine	
Military Leave	Workers' Compensation (salary continuance	
Family Illness	paid by the employing department.)	

Special Note regarding CTO:

CTO rates are to be used only when sick, vacation, and other CTO hours are not directly charged to a fee or grant project. For employees who charge only part of their hours worked to a grant, their time off is usually not being charged to the project, so the cost of that time off must be recovered using the CTO Rate. For employees whose entire annual salary is charged to a fee or grant, CTO is recovered as they take their time off, and the CTO Rate is not to be used. When applicable, CTO costs should be billed to granting agencies or recipients of special services, either as a separate line item, or as an adjustment to salaries, increasing net salaries to gross salaries. When the CTO Rate is applied to net salaries, the amount derived is added to net salaries to create gross salaries. The derived gross salaries becomes the base against which the fringe benefit rate and other indirect cost rates described above are applied.

6. OTHER DEFINITIONS

- a. Gross Salaries - Total annual salaries, which include pay for time worked AND compensated time off.
- b. Net Salaries - Pay for time worked only, not including compensated time off.

USING INDIRECT COST RATES IN CONJUNCTION WITH CHARGE BACK

Charge back items are included in the CAP Central Services Indirect cost rates. Once a charge back cost is paid directly by a department, theoretically it would no longer need to be included with Central Services indirect cost rates. However, since most departments do not directly bill charge back costs to grants or fee payers, the charge back costs must be included in indirect cost rates.

Some departments or bureaus may need to pay some of their charge back items directly out of special funds such as the Community Development Block Grant, the Street Lighting Assessment Fund or the Sewer Construction and Maintenance Fund. This may be done, even if CAP rates still include all charge back items. When departments pay charge back items out of special funds or grants, they will adjust their CAP rates so that overheads already paid for in charge back are not double billed. CAP rates are available with sufficient detail for departments to perform this calculation.

Fee-charging departments will make similar adjustments when computing their fees for special services. Fees are determined based on anticipated direct cost plus overheads. Fee-charging departments may include some or all charge back costs among their total direct costs of services when they compute their fees. If they do, they will have to adjust their CAP rates to subtract such directly paid items. The choice of whether to include them as direct or indirect costs will depend on each department's method of computing fees. To the extent that charge back costs, or other costs listed on Attachment C, are included in direct charges for fees, the indirect cost rates must be adjusted accordingly. The simplest approach in computing fees would be to omit the charge back items from the direct cost portion of fee computation, and use the unadjusted CAP rate (which includes charge back costs) to recover the cost of charge back items.

WAGES AND COUNT SWORN EMPLOYEES

2003-2004

TITLE	BONUS	02-03 AVG. SALARY	AVG BF WKL SALARY 03/04	HOURLY RATE	IND. FIELD @99.11% (CAP 25)	IND. ADMIN @ 81.68%(CAP 25)	6-MONTH SALARY	ANNUAL SALARY
POLICE OFFICER I		\$1,863.24	1,956.40	24.46	24.24	19.97	25,531	51,062
POLICE OFFICER II		\$2,546.05	2,673.35	33.42	33.12	27.29	34,887	69,775
POLICE OFFICER II	H	\$3,896.10	4,090.91	51.14	50.68	41.77	53,386	106,773
POLICE OFFICER II	L	\$3,080.26	3,234.27	40.43	40.07	33.02	42,207	84,415
POLICE OFFICER II	M	\$3,103.87	3,259.06	40.74	40.38	33.28	42,531	85,062
POLICE OFFICER III		\$2,894.20	3,038.91	37.99	37.65	31.03	39,658	79,316
POLICE OFFICER III	A	\$3,183.04	3,342.19	41.78	41.41	34.12	43,616	87,231
POLICE OFFICER III	B	\$3,073.40	3,227.07	40.34	39.98	32.95	42,113	84,227
POLICE OFFICER III	C	\$3,055.88	3,208.67	40.11	39.75	32.76	41,873	83,746
POLICE OFFICER III	D	\$3,129.60	3,286.08	41.08	40.71	33.55	42,883	85,767
POLICE OFFICER III	E	\$3,114.47	3,270.19	40.88	40.51	33.39	42,676	85,352
POLICE OFFICER III	F	\$3,123.95	3,280.15	41.00	40.64	33.49	42,806	85,612
POLICE OFFICER III	G	\$3,072.32	3,225.94	40.32	39.97	32.94	42,098	84,197
POLICE OFFICER III	J	\$4,144.80	4,352.04	54.40	53.92	44.43	56,794	113,588
POLICE OFFICER III	K	\$3,420.80	3,591.84	44.90	44.50	36.67	46,874	93,747
POLICE OFFICER III	O	\$3,115.78	3,271.57	40.89	40.53	33.40	42,694	85,388
POLICE OFFICER III	P	\$3,141.10	3,298.16	41.23	40.86	33.67	43,041	86,082
POLICE OFFICER III	R	\$3,244.51	3,406.74	42.58	42.21	34.78	44,458	88,916
POLICE OFFICER III	S	\$3,405.15	3,575.41	44.69	44.29	36.50	46,659	93,318
POLICE OFFICER III	T	\$3,134.52	3,291.25	41.14	40.77	33.60	42,951	85,902
POLICE OFFICER III	V	\$3,211.20	3,371.76	42.15	41.77	34.43	44,001	88,003
POLICE OFFICER III	W	\$3,131.64	3,288.22	41.10	40.74	33.57	42,911	85,823
POLICE SPECIALIST		\$2,026.97	2,128.32	26.60	26.37	21.73	27,775	55,549
POLICE DETECTIVE I		\$3,115.67	3,271.45	40.89	40.53	33.40	42,692	85,385
POLICE DETECTIVE I	K	\$3,780.07	3,969.07	49.61	49.17	40.52	51,796	103,593
POLICE DETECTIVE I	L	\$3,282.67	3,446.80	43.09	42.70	35.19	44,981	89,962
POLICE DETECTIVE II		\$3,349.43	3,516.90	43.96	43.57	35.91	45,896	91,791
POLICE DETECTIVE II	K	\$3,935.20	4,131.96	51.65	51.19	42.19	53,922	107,844
POLICE DETECTIVE II	L	\$3,578.58	3,757.51	46.97	46.55	38.36	49,035	98,071
POLICE DETECTIVE III		\$3,681.88	3,865.97	48.32	47.89	39.47	50,451	100,902
POLICE DETECTIVE III	K	\$4,380.00	4,599.00	57.49	56.98	46.96	60,017	120,034
POLICE DETECTIVE III	L	\$3,935.20	4,131.96	51.65	51.19	42.19	53,922	107,844
POLICE SERGEANT I		\$3,323.65	3,489.83	43.62	43.23	35.63	45,542	91,085
POLICE SERGEANT I	E	\$3,345.60	3,512.88	43.91	43.52	35.87	45,843	91,686

WAGES AND COUNT SWORN EMPLOYEES

2003-2004

TITLE	BONUS	02-03 AVG. SALARY	AVG BF WKL SALARY 03/04	HOURLY RATE	IND. FIELD @99.11% (CAP 25)	IND. ADMIN @ 81.68%(CAP 25)	6-MONTH SALARY	ANNUAL SALARY
POLICE SERGEANT I	M	\$3,752.98	3,940.63	49.26	48.82	40.23	51,425	102,850
POLICE SERGEANT I	T	\$3,912.96	4,108.61	51.36	50.90	41.95	53,617	107,235
POLICE SERGEANT II		\$3,539.17	3,716.13	46.45	46.04	37.94	48,495	96,991
POLICE SERGEANT II	S	\$4,001.60	4,201.68	52.52	52.05	42.90	54,832	109,664
POLICE SERGEANT II	T	\$3,795.20	3,984.96	49.81	49.37	40.69	52,004	104,007
POLICE SERGEANT II	X	\$3,999.71	4,199.70	52.50	52.03	42.88	54,806	109,612
POLICE LIEUTENANT I		\$3,935.48	4,132.25	51.65	51.19	42.19	53,926	107,852
POLICE LIEUTENANT I	Q	\$4,234.40	4,446.12	55.58	55.08	45.39	58,022	116,044
POLICE LIEUTENANT I	Y	\$4,628.80	4,860.24	60.75	60.21	49.62	63,426	126,852
POLICE LIEUTENANT II		\$4,138.82	4,345.76	54.32	53.84	44.37	56,712	113,424
POLICE LIEUTENANT II	Y	\$4,628.80	4,860.24	60.75	60.21	49.62	63,426	126,852
POLICE CAPTAIN I		\$4,396.51	4,616.34	57.70	57.19	47.13	60,243	120,486
POLICE CAPTAIN II		\$4,793.88	5,033.57	62.92	62.36	51.39	65,688	131,376
POLICE CAPTAIN III		\$5,188.54	5,447.97	68.10	67.49	55.62	71,096	142,192
POLICE COMMANDER		\$5,750.54	6,038.07	75.48	74.80	61.65	78,797	157,594
POLICE DEPUTY CHIEF I		\$6,409.94	6,730.44	84.13	83.38	68.72	87,832	175,664
POLICE DEPUTY CHIEF II		\$7,832.80	8,224.44	102.81	101.89	83.97	107,329	214,658
CHIEF OF POLICE		\$9,476.00	9,949.80	124.37	123.27	101.59	129,845	259,690

WAGES AND COUNT
CIVILIAN 2003-04

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
0020	POLICE PERMIT REVIEW PANEL		\$ -	\$ -	\$ -
0101	POLICE COMMISSIONER		\$ -	\$ -	\$ -
0576	PARALEGAL I		\$ -	\$ -	\$ -
0600	EXECUTIVE DIRECTOR POLICE COMMISSION	\$ 5,395.20	\$ 67.44	\$ 70,407	\$ 140,815
0601	INSPECTOR GENERAL	\$ 5,342.00	\$ 66.78	\$ 69,713	\$ 139,426
0602-2	SPECIAL INVESTIGATOR II	\$ 3,302.96	\$ 41.29	\$ 43,104	\$ 86,207
0603	ASSISTANT INSPECTOR GENERAL	\$ 4,605.60	\$ 57.57	\$ 60,103	\$ 120,206
1101	OFFICE TRAINEE	\$ 879.40	\$ 10.99	\$ 11,476	\$ 22,952
1116	SECRETARY	\$ 1,911.00	\$ 23.89	\$ 24,939	\$ 49,877
1117-2	EXECUTIVE SECRETARY II	\$ 2,218.06	\$ 27.73	\$ 28,946	\$ 57,891
1117-3	EXECUTIVE SECRETARY III	\$ 2,491.20	\$ 31.14	\$ 32,510	\$ 65,020
1121-1	DELIVERY DRIVER I	\$ 1,397.60	\$ 17.47	\$ 18,239	\$ 36,477
1136	DATA PROCESSING TECH I		\$ -	\$ -	\$ -
1141	CLERK	\$ 1,368.64	\$ 17.11	\$ 17,861	\$ 35,722
1143	SR CLERK	\$ 1,775.20	\$ 22.19	\$ 23,166	\$ 46,333
1152-2	PRINCIPAL CLERK POLICE II	\$ 2,161.85	\$ 27.02	\$ 28,212	\$ 56,424
1152-3	PRINCIPAL CLERK POLICE III	\$ 2,361.26	\$ 29.52	\$ 30,814	\$ 61,629
1157-1	FINGERPRINT IDEN. EXPERT I	\$ 1,885.22	\$ 23.57	\$ 24,602	\$ 49,204
1157-2	FINGERPRINT IDEN. EXPERT II	\$ 1,972.24	\$ 24.65	\$ 25,738	\$ 51,475
1157-3	FINGERPRINT IDEN. EXPERT III	\$ 2,053.20	\$ 25.67	\$ 26,794	\$ 53,589
1158-1	PR FINGERPRINT IDEN. EXPERT I	\$ 2,341.60	\$ 29.27	\$ 30,558	\$ 61,116
1158-2	PR FINGERPRINT IDEN. EXPERT II	\$ 2,474.40	\$ 30.93	\$ 32,291	\$ 64,582
1170-1	PAYROLL SUPERVISOR I	\$ 2,428.00	\$ 30.35	\$ 31,685	\$ 63,371
1170-2	PAYROLL SUPERVISOR II	\$ 2,590.40	\$ 32.38	\$ 33,805	\$ 67,609
1223-1	ACCOUNTING CLERK I	\$ 1,603.01	\$ 20.04	\$ 20,919	\$ 41,839
1223-2	ACCOUNTING CLERK II	\$ 1,847.14	\$ 23.09	\$ 24,105	\$ 48,210
1249-2	CHIEF CLERK POLICE II	\$ 2,793.60	\$ 34.92	\$ 36,456	\$ 72,913
1321	CLERK STENOGRAPHER	\$ 1,500.96	\$ 18.76	\$ 19,588	\$ 39,175
1323	SENIOR CLERK STENOGRAPHER	\$ 1,874.40	\$ 23.43	\$ 24,461	\$ 48,922

WAGES AND COUNT
CIVILIAN 2003-04

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
1326	HEARING REPORTER	\$ 2,262.27	\$ 28.28	\$ 29,523	\$ 59,045
1358	CLERK TYPIST	\$ 1,411.60	\$ 17.65	\$ 18,421	\$ 36,843
1360	OFFICE SERVICES ASSISTANT	\$ 1,200.00	\$ 15.00	\$ 15,660	\$ 31,320
1368	SENIOR CLERK TYPIST	\$ 1,759.31	\$ 21.99	\$ 22,959	\$ 45,918
1431-4	PROGRAMMER/ANALYST IV	\$ 3,210.40	\$ 40.13	\$ 41,896	\$ 83,791
1433-2	DATA ENTRY OPERATOR II	\$ 1,634.40	\$ 20.43	\$ 21,329	\$ 42,658
1502	STUDENT PROFESSIONAL WORKER	\$ 1,010.88	\$ 12.64	\$ 13,192	\$ 26,384
1508	MANAGEMENT AIDE	\$ 1,908.85	\$ 23.86	\$ 24,910	\$ 49,821
1513-1	ACCOUNTANT I		\$ -	\$ -	\$ -
1513-2	ACCOUNTANT II	\$ 1,985.00	\$ 24.81	\$ 25,904	\$ 51,809
1517	AUDITOR	\$ 1,916.80	\$ 23.96	\$ 25,014	\$ 50,028
1518	SENIOR AUDITOR	\$ 2,490.40	\$ 31.13	\$ 32,500	\$ 64,999
1523-1	SENIOR ACCOUNTANT I	\$ 2,162.40	\$ 27.03	\$ 28,219	\$ 56,439
1523-2	SENIOR ACCOUNTANT II	\$ 2,342.40	\$ 29.28	\$ 30,568	\$ 61,137
1525-2	PRINCIPAL ACCOUNTANT II	\$ 3,140.80	\$ 39.26	\$ 40,987	\$ 81,975
1539	MANAGEMENT ASSISTANT	\$ 1,782.11	\$ 22.28	\$ 23,257	\$ 46,513
1555-1	FISCAL SYSTEMS SPEC I	\$ 3,358.40	\$ 41.98	\$ 43,827	\$ 87,654
1555-2	FISCAL SYSTEMS SPEC II	\$ 3,920.00	\$ 49.00	\$ 51,156	\$ 102,312
1576-2	REHAB TRAINEE/TRANSITIONAL WORKER	\$ 1,231.39	\$ 15.39	\$ 16,070	\$ 32,139
1593-2	DEPT CHIEF ACCOUNTANT II	\$ 3,710.40	\$ 46.38	\$ 48,421	\$ 96,841
1596-1	SYSTEMS ANALYST I	\$ 2,147.20	\$ 26.84	\$ 28,021	\$ 56,042
1596-2	SYSTEMS ANALYST II	\$ 2,547.42	\$ 31.84	\$ 33,244	\$ 66,488
1597-1	SR SYSTEMS ANALYST I	\$ 3,092.49	\$ 38.66	\$ 40,357	\$ 80,714
1597-2	SR SYSTEMS ANALYST II	\$ 3,804.80	\$ 47.56	\$ 49,653	\$ 99,305
1599	SYSTEMS AIDE	\$ 1,902.40	\$ 23.78	\$ 24,826	\$ 49,653
1650	POLICE COMPOSITE ARTIST		\$ -	\$ -	\$ -
1670-1	GRAPHICS DESIGNER I		\$ -	\$ -	\$ -
1670-2	GRAPHICS DESIGNER II	\$ 2,138.67	\$ 26.73	\$ 27,910	\$ 55,819
1714-4	DEPT PERSONNEL OFFICER IV		\$ -	\$ -	\$ -

**WAGES AND COUNT
CIVILIAN 2003-04**

CLASS CODE	CLASS TITLE	AVG BI- WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
1739	PERSONNEL RESEARCH ANALYST II		\$ -	\$ -	\$ -
1764-1	BACKGROUND INVESTIGATOR	\$ 2,035.87	\$ 25.45	\$ 26,568	\$ 53,136
1764-2	BACKGROUND INVESTIGATOR	\$ 2,263.20	\$ 28.29	\$ 29,535	\$ 59,070
1779-2	OPER & STATS RES ANAL II	\$ 3,155.20	\$ 39.44	\$ 41,175	\$ 82,351
1785-1	PUBLIC RELATIONS SPECIALIST I	\$ 1,730.00	\$ 21.63	\$ 22,577	\$ 45,153
1785-2	PUBLIC RELATIONS SPECIALIST II		\$ -	\$ -	\$ -
1786	PRINCIPAL PUBLIC RELATIONS SPECIALIST	\$ 2,460.80	\$ 30.76	\$ 32,113	\$ 64,227
1793-1	PHOTOGRAPHER I	\$ 1,872.80	\$ 23.41	\$ 24,440	\$ 48,880
1793-2	PHOTOGRAPHER II	\$ 2,091.47	\$ 26.14	\$ 27,294	\$ 54,587
1793-3	PHOTOGRAPHER III	\$ 2,384.47	\$ 29.81	\$ 31,117	\$ 62,235
1794	PRINCIPAL PHOTOGRAPHER	\$ 3,122.40	\$ 39.03	\$ 40,747	\$ 81,495
1795-1	SR PHOTOGRAPHER I	\$ 2,527.20	\$ 31.59	\$ 32,980	\$ 65,960
1795-2	SR PHOTOGRAPHER II	\$ 2,676.00	\$ 33.45	\$ 34,922	\$ 69,844
1800-1	PUBLIC INFORMATION DIRECTOR I	\$ 3,145.60	\$ 39.32	\$ 41,050	\$ 82,100
1800-2	PUBLIC INFORMATION DIRECTOR II	\$ 3,620.00	\$ 45.25	\$ 47,241	\$ 94,482
1832-1	WRHSE & TOOL RM WRKR I	\$ 1,398.80	\$ 17.49	\$ 18,254	\$ 36,509
1832-2	WRHSE & TOOL RM WRKR II	\$ 1,588.00	\$ 19.85	\$ 20,723	\$ 41,447
1835-1	STOREKEEPER I	\$ 1,731.20	\$ 21.64	\$ 22,592	\$ 45,184
1835-2	STOREKEEPER II	\$ 1,774.40	\$ 22.18	\$ 23,156	\$ 46,312
1837-1	SR STOREKEEPER I	\$ 2,012.80	\$ 25.16	\$ 26,267	\$ 52,534
2200-1	FORENSIC PRINT SPECIALIST I		\$ -	\$ -	\$ -
2200-2	FORENSIC PRINT SPECIALIST II	\$ 2,467.96	\$ 30.85	\$ 32,207	\$ 64,414
2200-3	FORENSIC PRINT SPECIALIST III	\$ 2,922.46	\$ 36.53	\$ 38,138	\$ 76,276
2200-4	FORENSIC PRINT SPECIALIST IV	\$ 3,127.36	\$ 39.09	\$ 40,812	\$ 81,624
2202	POLICE SERVICE ASSISTANT	\$ 1,526.40	\$ 19.08	\$ 19,920	\$ 39,839
2201	SR FORENSIC PR SPECIALIST	\$ 3,433.28	\$ 42.92	\$ 44,804	\$ 89,609
2203	PR FORENSIC PR SPECIALIST	\$ 3,722.40	\$ 46.53	\$ 48,577	\$ 97,155
2207	POLICE SERVICE REPRESENTATIVE	\$ 1,707.04	\$ 21.34	\$ 22,277	\$ 44,554
2207-1	POLICE SERVICE REPRESENTATIVE	\$ 1,630.85	\$ 20.39	\$ 21,283	\$ 42,565

**WAGES AND COUNT
CIVILIAN 2003-04**

CLASS CODE	CLASS TITLE	AVG BI- WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
2207-2	POLICE SERVICE REPRESENTATIVE	\$ 2,074.31	\$ 25.93	\$ 27,070	\$ 54,139
2207-3	POLICE SERVICE REPRESENTATIVE	\$ 2,557.95	\$ 31.97	\$ 33,381	\$ 66,762
2209-1	SR POLICE SERVICE REP I	\$ 2,476.50	\$ 30.96	\$ 32,318	\$ 64,637
2209-2	SR POLICE SERVICE REP II	\$ 2,973.60	\$ 37.17	\$ 38,805	\$ 77,611
2233	FIREARMS EXAMINER	\$ 3,263.73	\$ 40.80	\$ 42,592	\$ 85,183
2233-1	FIREARMS EXAMINER	\$ 2,449.60	\$ 30.62	\$ 31,967	\$ 63,935
2234-1	CRIMINALIST I	\$ 2,261.10	\$ 28.26	\$ 29,507	\$ 59,015
2234-2	CRIMINALIST II	\$ 3,194.13	\$ 39.93	\$ 41,683	\$ 83,367
2234-3	CRIMINALIST III	\$ 3,517.96	\$ 43.97	\$ 45,909	\$ 91,819
2235	SUPERVISING CRIMINALIST	\$ 3,821.60	\$ 47.77	\$ 49,872	\$ 99,744
2237-1	CHIEF FORENSIC CHEMIST I	\$ 4,164.80	\$ 52.06	\$ 54,351	\$ 108,701
2237-2	CHIEF FORENSIC CHEMIST II	\$ 4,711.20	\$ 58.89	\$ 61,481	\$ 122,962
2240-1	POLYGRAPH EXAMINER I	\$ 1,976.80	\$ 24.71	\$ 25,797	\$ 51,594
2240-2	POLYGRAPH EXAMINER II	\$ 2,704.67	\$ 33.81	\$ 35,296	\$ 70,592
2240-3	POLYGRAPH EXAMINER III	\$ 3,409.20	\$ 42.62	\$ 44,490	\$ 88,980
2240-4	POLYGRAPH EXAMINER IV	\$ 4,132.43	\$ 51.66	\$ 53,928	\$ 107,856
2262-A	DEPUTY CHIEF	\$ 6,236.80	\$ 77.96	\$ 81,390	\$ 162,780
2352	EQUESTRIAN FACILITY SUPERVISOR		\$ -	\$ -	\$ -
2382-1	POLICE PSYCHOLOGIST I	\$ 3,583.57	\$ 44.79	\$ 46,766	\$ 93,531
2382-2	POLICE PSYCHOLOGIST II	\$ 4,311.20	\$ 53.89	\$ 56,261	\$ 112,522
2383	POLICE TRAINING ADMINISTRATOR	\$ 4,271.20	\$ 53.39	\$ 55,739	\$ 111,478
2384	CHIEF POLICE PSYCHOLOGIST	\$ 4,711.20	\$ 58.89	\$ 61,481	\$ 122,962
3112	MAINTENANCE LABORER	\$ 1,431.12	\$ 17.89	\$ 18,676	\$ 37,352
3115	MAINTENANCE & CONSTRUCT. HELPER		\$ -	\$ -	\$ -
3141	GARDENER CARETAKER	\$ 1,512.80	\$ 18.91	\$ 19,742	\$ 39,484
3143	SR GARDENER	\$ 1,697.60	\$ 21.22	\$ 22,154	\$ 44,307
3145	PARK MAINTENANCE SUPERVISOR	\$ 2,020.00	\$ 25.25	\$ 26,361	\$ 52,722
3156	CUSTODIAL SERVICES ATTENDANT	\$ 1,191.20	\$ 14.89	\$ 15,545	\$ 31,090
3157-1	SR CUSTODIAL SERVICES ATT I		\$ -	\$ -	\$ -

WAGES AND COUNT
CIVILIAN 2003-04

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
3157-2	SR CUSTODIAL SERVICES ATT II		\$ -	\$ -	\$ -
3162-1	REPROGRAPHICS OPERATOR I	\$ 1,580.80	\$ 19.76	\$ 20,629	\$ 41,259
3181	SECURITY OFFICER	\$ 1,578.40	\$ 19.73	\$ 20,598	\$ 41,196
3184	SR SECURITY OFFICER	\$ 1,758.40	\$ 21.98	\$ 22,947	\$ 45,894
3207	PROPERTY OFFICER	\$ 1,724.93	\$ 21.56	\$ 22,510	\$ 45,021
3209	SR PROPERTY OFFICER	\$ 2,076.80	\$ 25.96	\$ 27,102	\$ 54,204
3210	PR PROPERTY OFFICER	\$ 2,277.60	\$ 28.47	\$ 29,723	\$ 59,445
3211	DETENTION OFFICER	\$ 1,771.32	\$ 22.14	\$ 23,116	\$ 46,231
3212	SR DETENTION OFFICER	\$ 2,116.12	\$ 26.45	\$ 27,615	\$ 55,231
3215	PR DETENTION OFFICER	\$ 2,421.31	\$ 30.27	\$ 31,598	\$ 63,196
3229-1	EXAM QUESTIONED DOCUMENTS I		\$ -	\$ -	\$ -
3229-2	EXAM QUESTIONED DOCUMENTS II	\$ 3,155.20	\$ 39.44	\$ 41,175	\$ 82,351
3231	SR EXAM QUESTIONED DOCUMENTS	\$ 3,821.60	\$ 47.77	\$ 49,872	\$ 99,744
3333-1	BUILDING REPAIRER	\$ 1,610.40	\$ 20.13	\$ 21,016	\$ 42,031
3338	BUILDING REPAIR SUPERVISOR	\$ 2,826.40	\$ 35.33	\$ 36,885	\$ 73,769
3343	CABINET MAKER	\$ 2,216.80	\$ 27.71	\$ 28,929	\$ 57,858
3344	CARPENTER	\$ 2,216.80	\$ 27.71	\$ 28,929	\$ 57,858
3423	PAINTER	\$ 2,124.80	\$ 26.56	\$ 27,729	\$ 55,457
3443	PLUMBER	\$ 2,425.60	\$ 30.32	\$ 31,654	\$ 63,308
3531	GARAGE ATTENDANT	\$ 1,461.24	\$ 18.27	\$ 19,069	\$ 38,138
3533	SR GARAGE ATTENDANT	\$ 1,518.40	\$ 18.98	\$ 19,815	\$ 39,630
3583	TRUCK OPERATOR	\$ 1,697.60	\$ 21.22	\$ 22,154	\$ 44,307
3595-1	AUTOMOTIVE DISP I	\$ 1,523.20	\$ 19.04	\$ 19,878	\$ 39,756
3595-2	AUTOMOTIVE DISP II	\$ 1,912.00	\$ 23.90	\$ 24,952	\$ 49,903
3686	COMMUNICATIONS ELECTRICIAN	\$ 2,328.00	\$ 29.10	\$ 30,380	\$ 60,761
3687	POLICE SURVEILLANCE SPECIALIST	\$ 2,300.80	\$ 28.76	\$ 30,025	\$ 60,051
3687-1	POLICE SURVEILLANCE SPECIALIST I	\$ 2,508.17	\$ 31.35	\$ 32,732	\$ 65,463
3687-2	POLICE SURVEILLANCE SPECIALIST II	\$ 2,860.80	\$ 35.76	\$ 37,333	\$ 74,667
3689	COMMUNICATION ELECTRICIAN SUPERVISOR		\$ -	\$ -	\$ -

WAGES AND COUNT
CIVILIAN 2003-04

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
3704-5	AUTO BODY BUILDER/REPAIRER	\$ 2,098.07	\$ 26.23	\$ 27,380	\$ 54,760
3706-F	AUTO BODY REPAIR SUPERVISOR	\$ 2,202.40	\$ 27.53	\$ 28,741	\$ 57,483
3706-2	AUTO BODY REPAIR SUPERVISOR II	\$ 2,479.20	\$ 30.99	\$ 32,354	\$ 64,707
3707-5	AUTO ELECTRICIAN	\$ 2,120.80	\$ 26.51	\$ 27,676	\$ 55,353
3710-1	POLICE FLEET SERVICE SUPV I	\$ 2,216.80	\$ 27.71	\$ 28,929	\$ 57,858
3711-5	EQUIPMENT MECHANIC	\$ 2,136.07	\$ 26.70	\$ 27,876	\$ 55,751
3712-5	SR EQUIPMENT MECHANIC	\$ 2,257.94	\$ 28.22	\$ 29,466	\$ 58,932
3714	AUTOMOTIVE SUPERVISOR	\$ 2,473.10	\$ 30.91	\$ 32,274	\$ 64,548
3716	SR AUTOMOTIVE SUPERVISOR	\$ 2,743.20	\$ 34.29	\$ 35,799	\$ 71,598
3718	GENERAL AUTOMOTIVE SUPERVISOR	\$ 3,278.40	\$ 40.98	\$ 42,783	\$ 85,566
3721-5	AUTO PAINTER	\$ 2,120.80	\$ 26.51	\$ 27,676	\$ 55,353
3722-1	DIRECTOR OF POLICE TRANSP I	\$ 3,710.40	\$ 46.38	\$ 48,421	\$ 96,841
3722-2	DIRECTOR OF POLICE TRANSP II	\$ 4,711.20	\$ 58.89	\$ 61,481	\$ 122,962
3723-5	UPHOLSTERER	\$ 2,120.80	\$ 26.51	\$ 27,676	\$ 55,353
3771	MECHANICAL HELPER	\$ 1,596.80	\$ 19.96	\$ 20,838	\$ 41,676
3773-1	MECHANICAL REPAIRER I	\$ 2,033.60	\$ 25.42	\$ 26,538	\$ 53,077
3796	WELDER	\$ 2,243.20	\$ 28.04	\$ 29,274	\$ 58,548
3799	ELECTRICAL CRAFT HELPER	\$ 1,631.20	\$ 20.39	\$ 21,287	\$ 42,574
3863	ELECTRICIAN	\$ 2,328.00	\$ 29.10	\$ 30,380	\$ 60,761
4310	ANIMAL CARE TECHNICIAN	\$ 1,296.00	\$ 16.20	\$ 16,913	\$ 33,826
4322	EQUINE KEEPER	\$ 1,569.80	\$ 19.62	\$ 20,486	\$ 40,972
6147	AUDIO VISUAL TECHNICIAN	\$ 2,082.00	\$ 26.03	\$ 27,170	\$ 54,340
6400	TRANSIT SECRETARY	\$ 1,928.00	\$ 24.10	\$ 25,160	\$ 50,321
6401	TRANSIT AIDE	\$ 1,902.40	\$ 23.78	\$ 24,826	\$ 49,653
6402	TRANSIT ANALYST I	\$ -	\$ -	\$ -	\$ -
6403	TRANSIT DOC CONTR ASST	\$ -	\$ -	\$ -	\$ -
6405	SR TRANSIT ANALYST	\$ 3,164.80	\$ 39.56	\$ 41,301	\$ 82,601
7204	CARTOGRAPHER	\$ 1,981.60	\$ 24.77	\$ 25,860	\$ 51,720
7213	GEOGRAPHIC INFORMATION SPECIALIST	\$ 2,261.60	\$ 28.27	\$ 29,514	\$ 59,028

WAGES AND COUNT
CIVILIAN 2003-04

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
7214-1	GEOGRAPHIC INFO SYSTEMS SUPERVISOR I	\$ 2,536.80	\$ 31.71	\$ 33,105	\$ 66,210
7607-1	COMMUNICATIONS ENGINEERING ASSOC. I	\$ 2,456.00	\$ 30.70	\$ 32,051	\$ 64,102
7610	COMMUNICATIONS ENGINEER	\$ 3,509.60	\$ 43.87	\$ 45,800	\$ 91,601
7833-2	CHEMIST II	\$ 2,592.80	\$ 32.41	\$ 33,836	\$ 67,672
7854-1	LABORATORY TECHNICIAN I	\$ 1,593.00	\$ 19.91	\$ 20,789	\$ 41,577
7854-2	LABORATORY TECHNICIAN II		\$ -	\$ -	\$ -
7922	ARCHITECT DRAFTING TECH	\$ 2,092.00	\$ 26.15	\$ 27,301	\$ 54,601
9167-1	SR PERSONNEL ANALYST I	\$ 3,035.05	\$ 37.94	\$ 39,607	\$ 79,215
9167-2	SR PERSONNEL ANALYST II	\$ 3,715.60	\$ 46.45	\$ 48,489	\$ 96,977
9184-1	MANAGEMENT ANALYST I	\$ 2,252.80	\$ 28.16	\$ 29,399	\$ 58,798
9184-2	MANAGEMENT ANALYST II	\$ 2,599.26	\$ 32.49	\$ 33,920	\$ 67,841
9171-1	SR MANAGEMENT ANALYST I	\$ 3,100.42	\$ 38.76	\$ 40,460	\$ 80,921
9171-2	SR MANAGEMENT ANALYST II	\$ 3,695.28	\$ 46.19	\$ 48,223	\$ 96,447
9182	CHIEF MANAGEMENT ANALYST		\$ -	\$ -	\$ -
9183-1	POLICE ADMINISTRATOR		\$ -	\$ -	\$ -
9183-2	POLICE ADMINISTRATOR II		\$ -	\$ -	\$ -
9196-1	POLICE ADMINISTRATOR I	\$ 4,403.00	\$ 55.04	\$ 57,459	\$ 114,918
9196-2	POLICE ADMINISTRATOR II	\$ 5,395.20	\$ 67.44	\$ 70,407	\$ 140,815
9196-3	POLICE ADMINISTRATOR III	\$ 6,038.93	\$ 75.49	\$ 78,808	\$ 157,616
9359	CHIEF OF POLICE	\$ 9,435.20	\$ 117.94	\$ 123,129	\$ 246,259
9374	CHIEF INFORMATION OFFICER	\$ 6,136.40	\$ 76.71	\$ 80,080	\$ 160,160
9375	DIRECTOR OF SYSTEMS	\$ 4,711.20	\$ 58.89	\$ 61,481	\$ 122,962
9734-1	COMMISSION EXECUTIVE ASSIST I	\$ 2,113.60	\$ 26.42	\$ 27,582	\$ 55,165
9734-2	COMMISSION EXECUTIVE ASSIST II	\$ 2,559.20	\$ 31.99	\$ 33,398	\$ 66,795

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS			For State Controller Use Only (19) Program Number 00187 (20) Date Filed ___/___/___ (21) LRSInput ___/___/___		Program 187
(01) Claimant Identification Number <div style="text-align: center;">9819487</div>			Reimbursement Claim Data		
(02) Claimant Name <div style="text-align: center;">City of Los Angeles</div>			(22) PPBR-1,(03)(a)		
County of Location <div style="text-align: center;">Los Angeles</div>			(23) PPBR-1,(03)(b)	4,316	
Street Address or P.O. Box <div style="text-align: center;">150 North Los Angeles Street, Room 712</div>			(24) PPBR-1,(03)(c)	4,316	
City State Zip Code <div style="text-align: center;">Los Angeles CA 90012</div>			(25) PPBR-1,(03)(d)		
Type of Claim	Estimated Claim	Reimbursement Claim	(26)		
(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>		PPBR-1,(04)(1)(e)	496,999	
(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>		(27)		
(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>		PPBR-1,(04)(2)(e)		
			(28)		
			PPBR-1,(04)(3)(e)	2,037,956	
			(29)		
			PPBR-1,(04)(4)(e)	3,465,727	
Fiscal Year of Cost	(06)	(12)	(30)		
	2005-2006	2004-2005	PPBR-1,(06)	34.06,64.95	
Total Claimed Amount	(07)	(13)	(31)		
	\$6,999,480	\$8,749,350	PPBR-1,(07)	2,748,667	
LESS: 10% Late Penalty		(14)	(32)		
			PPBR-1,(09)		
LESS: Estimated Claim Payment Received		(15)	(33)		
			PPBR-1,(10)		
Net Claimed Amount		(16)	(34)		
		\$8,749,350			
Due from State	(08)	(17)	(35)		
	\$6,999,480	\$8,749,350			
Due to State		(18)	(36)		
(37) CERTIFICATION OF CLAIM <p>In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under the penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 through 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> Signature of Authorized Officer <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="display: flex; justify-content: space-between;"> Laura Filatoff Police Administrator </div> <div style="display: flex; justify-content: space-between; font-size: small;"> Print or type name Title </div> </div> <div style="width: 45%;"> Date <div style="border-bottom: 1px solid black; width: 100%;"></div> </div> </div>					
(38) Name of Contact Person for Claim <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Ginger Bernard (MAXIMUS) </div> <div style="width: 50%;"> Telephone Number (916)485-8102 Ext. 112 E-mail Address gingerbernard@maximus.com </div> </div>					

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY				FORM PPBR-1
(01) Claimant: City of Los Angeles		(02) Fiscal year costs were incurred: 2004-2005			
Claim Statistics					
(03) (a) Number of cases in process at the beginning of the fiscal year					
(b) Number of new cases added during the fiscal year					4316
(c) Number of cases completed or closed during the fiscal year					4316
(d) Number of cases in process at the end of the year					
Direct Costs					
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Travel and Training	(e) Total
1. Administrative Activities	\$364,731	\$132,269			\$496,999
2. Administrative Appeal					
3. Interrogations	\$1,493,993	\$543,963			\$2,037,956
4. Adverse Comment	\$2,542,710	\$923,017			\$3,465,727
(05) Total Direct Costs	\$4,401,434	\$1,599,248			\$6,000,683
Indirect Costs					
(06) Indirect Cost Rate (From ICRP)	Salary and Wages				34.06,64.95
(07) Indirect Costs	[Line (06) x Line (05)(a)]				\$2,748,667
(08) Total Direct and Indirect Costs	[Line (05)(e) + Line (07)]				\$8,749,350
Cost Reductions					
(09) Less Offsetting Savings, if applicable					
(10) Less Other Reimbursements, if applicable					
(11) Total Claimed Amount:	{Line(08)- [Line (09) + Line(10)]}				\$8,749,350

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2004-2005				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input checked="checked" type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)						Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
<p>The City of Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i></p> <p>The following staff spent time performing Administrative Activities related to the POBAR process. This includes updating the status of the POBAR cases.</p>								
Captain II	\$83.34	36.41%	517.92			\$43,164	\$15,716	\$58,880
Captain III	\$89.41	36.41%	733.72			\$65,603	\$23,886	\$89,489
Lieutenant	\$66.91	36.41%	86.32			\$5,776	\$2,103	\$7,879
Lieutenant II	\$70.40	36.41%	129.48			\$9,115	\$3,319	\$12,433
Sergeant I	\$57.01	36.41%	215.80			\$12,303	\$4,479	\$16,782
Sergeant II	\$60.12	36.41%	517.92			\$31,136	\$11,337	\$42,473
Detective II	\$56.87	36.41%	949.52			\$54,002	\$19,662	\$73,664
Detective III	\$62.76	36.41%	1381.12			\$86,679	\$31,560	\$118,238
Sr. Clerk Typist**	\$29.47	35.48%	561.08			\$16,533	\$5,866	\$22,399
Clerk Typist**	\$23.93	35.48%	517.92			\$12,393	\$4,397	\$16,790
Principal Clerk Police II**	\$36.08	35.48%	776.88			\$28,027	\$9,944	\$37,971
Total Cases	4316							
<p>**The indirect cost rate for civilian employees is 34.06%, applied to salaries only. See attached breakdown.</p> <p>The civilian benefit rate is 35.48%</p> <p><u>Please see attached FTE calculations.</u></p> <p style="padding-left: 40px;">Civilian 1618 hours</p> <p style="padding-left: 40px;">Sworn 1616 hours</p> <p>The agency named above has made every effort not to include costs relating to the "Skelly Process".</p>								
(05) Total () Subtotal ()				Page: ____ of ____		\$364,731	\$132,269	\$496,999

Revised 09/03

Program
187

**MANDATED COSTS
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
COMPONENT / ACTIVITY COST DETAIL**

**FORM
PPBR-2**

(01) Claimant: City of Los Angeles

(02) Fiscal year costs were incurred:

2004-2005

(03) Reimbursable Components: Check ONLY one box per form to identify the component being claimed.

☐ Administrative Activities

☒ Administrative Appeal

☐ Interrogations

☐ Adverse Comment

(04) Description of Expense: Complete columns (a) through (g)

Object Accounts

(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)							
						Salaries	Benefits	Total Sal. & Bens					
The above mentioned individuals spent time in meetings to review and hear the administrative appeals. The review of various documents was necessary to commence and proceed with the administrative hearing.													
The agency named above has made every effort not to include costs relating to the "Skelly Process".													
(05) Total ()	Subtotal ()	Page: ____ of ____											

Revised 09/03

Program

187

**MANDATED COSTS
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
COMPONENT / ACTIVITY COST DETAIL**

**FORM
PPBR-2**

(01) Claimant: City of Los Angeles

(02) Fiscal year costs were incurred:

2004-2005

(03) Reimbursable Components: Check ONLY one box per form to identify the component being claimed.☐ Administrative Activities☐ Administrative Appeal☒ Interrogations☐ Adverse Comment

(04) Description of Expense: Complete columns (a) through (g)

Object Accounts

(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
<p>The City of Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i></p> <p>The following staff spent time providing prior notice to the peace officer under investigation regarding the nature of the interrogation. This includes reviewing the complaints to prepare the notice of interrogation, determining the investigating officers, prep. of notice, and presentation of complaint to the peace officer.</p>								
Detective I	\$53.37	36.41%	2930.56			\$156,396	\$56,944	\$213,339
Detective II	\$56.87	36.41%	3237.00			\$184,097	\$67,030	\$251,127
Detective III	\$62.76	36.41%	2727.71			\$171,191	\$62,330	\$233,521
Sergeant I	\$57.01	36.41%	3116.15			\$177,649	\$64,682	\$242,331
Sergeant II	\$60.12	36.41%	3612.49			\$217,176	\$79,074	\$296,249
Lieutenant II	\$70.40	36.41%	4367.79			\$307,471	\$111,950	\$419,421
Total Cases 4316								
<p>The following staff represents witness and subject time spent in interrogations.</p>								
Peace Officer II - Witness .41/hr per case (23%)	\$43.46	36.41%	1769.56			\$76,903	\$28,001	\$104,904
Peace Officer II -Subject - 1.375/hr per case (77%)	\$43.46	36.41%	4673.63			\$203,112	\$73,953	\$277,064
<i>77% of the total time is spent on the subject officer.</i>								
<i>917 cases were backed out which represent the cases which resulted in discipline.</i>								
<u>Please see attached FTE calculations.</u>								
Civilian 1618 hours								
Sworn 1616 hours								
<i>The agency named above has made every effort not to include costs relating to the "Skelly Process".</i>								
(05) Total () Subtotal ()						\$1,493,993	\$543,963	\$2,037,956

Page: ____ of ____

Revised 09/03

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred:		2004-2005		
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input checked="" type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)					Object Accounts			
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
The City of Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The above individuals spent time reviewing the circumstances or documentation leading to an adverse comment, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to the officer and notification concerning rights regarding the same; review of response and attaching same to adverse comment.								
Lieutenant I	\$66.91	36.41%	2891.72			\$193,498	\$70,453	\$263,950
Lieutenant II	\$70.40	36.41%	4013.88			\$282,557	\$102,879	\$385,436
Captain I	\$75.38	36.41%	1942.20			\$146,398	\$53,304	\$199,702
Captain II	\$83.34	36.41%	2805.40			\$233,806	\$85,129	\$318,934
Captain III	\$89.41	36.41%	2460.12			\$219,962	\$80,088	\$300,051
Sergeant I	\$57.01	36.41%	8761.48			\$499,483	\$181,862	\$681,345
Sergeant II	\$60.12	36.41%	2891.72			\$173,844	\$63,297	\$237,141
Detective I	\$53.37	36.41%	215.80			\$11,517	\$4,193	\$15,710
Detective II	\$56.87	36.41%	4013.88			\$228,280	\$83,117	\$311,397
Detective III	\$62.76	36.41%	3150.68			\$197,736	\$71,996	\$269,732
Police Officer II	\$43.46	36.41%	1294.80			\$56,271	\$20,488	\$76,759
Clerk Typist**	\$23.93	35.48%	215.80			\$5,164	\$1,832	\$6,996
Sr. Clerk Typist**	\$29.47	35.48%	1640.08			\$48,328	\$17,147	\$65,475
Police Service Representative**	\$35.51	35.48%	1596.92			\$56,713	\$20,122	\$76,835
Management Analyst II**	\$44.00	35.48%	3237.00			\$142,440	\$50,538	\$192,978
Principal Clerk Police II**	\$36.08	35.48%	1294.80			\$46,712	\$16,574	\$63,286
Total Cases 4316								
**The indirect cost rate for civilian employees is 34.06%, applied to salaries only. See attached breakdown. Civilian Benefit rate is 35.48%								
<u>Please see attached FTE calculations. 1618 © and 1616 (S)</u>								
(05) Total ()		Subtotal ()		Page: ____ of ____		\$2,542,710	\$923,017	\$3,465,727

Revised 09/03

Indirect Cost					ICRP	Indirect Costs
	Admin. Activities	Interrogations	Comment	Salaries		
Civilian	Salaries	\$56,954	\$299,358	34.06%	\$	121,360
	Benefits	\$20,207	\$106,212			
Sworn	Salaries	\$307,777	\$1,493,993	64.95%	\$	2,627,307
	Benefits	\$112,062	\$543,963			
		\$496,999	\$2,037,956	\$3,465,727		\$ 2,748,667

COST ALLOCATION PLAN 27*
INDIRECT OR ADMINISTRATIVE COST FACTORS – POLICE DEPARTMENT
Effective 7/1/2004 through 6/30/2005

(COST ALLOCATION PLAN 27 - APPROVED BY THE GOVERNMENT)

SWORN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Pension	15.72%
Flex Benefit Program	8.57
Employee Assistance	0.09
Medicare	1.06
Unused Sick/Vacation Payout	1.41
Unemployment Claims	0.01
Workers' Compensation	8.42
Carry Forward, Positive	1.12
Total Fringe Benefits	36.41%
Department Administrative Rate	41.77%
General City Overhead	23.18
	64.95%
Total Sworn Overhead	101.36%

Department Field Support **31.93%**

Note: This indirect cost rate is added to the other rates, when the function or grant includes services provided by sworn employees assigned to the field, and is to be applied only to that portion of the function or grant. The rate represents five Department divisions that support field operations: Records and Identification, Scientific Investigation, Communications, Property and Jail.

CIVILIAN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Retirement	15.54%
Flex Benefit Program	9.14
Employee Assistance	0.03
Ordinance Life Insurance	0.01
Medicare	1.01
Union-Sponsored Benefits	0.30
Unused Sick/Vacation Payout	0.77
Unemployment Claims	0.06
Workers' Compensation	7.12
Carry Forward, Positive	1.52
Total Fringe Benefits	35.48%
Department Administrative Rate	17.07%
General City Overhead	16.99
	34.06%
Total Civilian Overhead	69.54%

NOTE: CAP rates are not applied to overtime charges. If extensive overtime is charged to a grant (more than 50% of straight-time charges), or for more information about applying CAP rates, call Fiscal Operations Division at (213) 485-3836.

*Cost Allocation Plan 27 is based on actual expenditures for FY 2002/03

COST ALLOCATION PLAN 27*
INDIRECT OR ADMINISTRATIVE COST FACTORS – POLICE DEPARTMENT
Effective 7/1/2004 through 6/30/2005

(COST ALLOCATION PLAN 27 - APPROVED BY THE GOVERNMENT)

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CIVILIAN EMPLOYEES STRAIGHT TIME:

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Ordinance Life Insurance	0.01
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*Cost Allocation Plan 27 is based on actual expenditures for FY 2002/03

**CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE**

DATE: September 16, 2005

TO: All City Office/Department Heads

MEMORANDUM NO. 05-041

FROM: DeWitt Roberts, Chief Deputy Controller 

SUBJECT: 2004-05 INDIRECT COST RATES—COST ALLOCATION PLAN (CAP) 27

Attached are the approved Cost Allocation Plan (CAP) 27 indirect cost rates and instructions on their use. The only changes from the interim rates distributed on September 2, 2004, were the Housing Department's Grant Funded Housing and Enforcement Central Service Rates.

The rates were approved by the U.S. Department of Health and Human Services under contract with our cognizant federal agency, the U.S. Department of Housing and Urban Development. These rates must be used in all new applications, contracts, and billings for grant activities and to compute overhead amounts to be included with fees for special services during 2004-05.

Questions regarding the Cost Allocation Plan or indirect cost rates may be directed to the CAP staff, Lillian Sedlak at 978-7326, or Achilles Gonzales at 978-7327.

Attachments: A – Indirect Cost Rates
B – Instructions
C – Costs Included in Rate Calculations

COST ALLOCATION PLAN 27 (CAP 27) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2004-05. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
AGING:					
Balance of Department	28.12%	77.55%	na	*	24.62%
Title V	2.77%	2.47%	na	*	6.85%
ANIMAL SERVICES	32.61%	39.44%	42.33%	*	18.83%
BUILDING & SAFETY	28.46%	23.53%	18.98%	*	19.35%
CITY ADMINISTRATIVE OFFICER (OARS):					
CRA, Petroleum Admin., Proprietary, Capital Projects (Phy. Plant)	22.78%	35.62%	22.76%	*	20.88%
Disaster Grants Coordination	23.15%	56.17%	21.43%	*	20.88%
CITY ATTORNEY:					
Criminal	25.51%	11.53%	5.04%	*	20.72%
Direct Billed - User's Site (Proprietary Depts)	24.15%	1.27%	10.94%	*	20.72%
Direct Billed - In City Space	24.17%	12.50%	3.50%	*	20.72%
CITY CLERK:					
Elections	77.26%	39.31%	14.67%	*	17.54%
Land Records	28.97%	69.51%	102.02%	*	6.06%
COMMISSION FOR CHILDREN, YOUTH AND THEIR FAMILIES	33.29%	81.03%	25.82%	*	21.10%
COMMISSION ON STATUS OF WOMEN	26.31%	20.48%	5.29%	*	26.41%
COMMUNITY DEVELOPMENT:					
Balance of Department	28.67%	19.26%	na	*	19.25%
As Needed Employees	7.92%	0.21%	na	*	n/a
CONTROLLER:					
Direct Billed (at User's site)	29.20%	3.91%	38.73%	*	20.52%
Direct Billed (in City space)	32.59%	101.36%	57.78%	*	20.52%
CULTURAL AFFAIRS	36.16%	68.68%	10.43%	*	18.11%
DEPARTMENT on DISABILITY	27.89%	63.72%	62.55%		19.03%
EL PUEBLO	20.15%	25.79%	34.69%	*	21.27%
EMERGENCY PREPAREDNESS DEPT					
Em. Prep. Policy & Public info.	20.74%	76.79%	68.11%		n/a
ENVIRONMENTAL AFFAIRS:					
Policy/Public Information	22.69%	50.39%	37.54%	*	24.35%

COST ALLOCATION PLAN 27 (CAP 27) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2004-05. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
FINANCE, OFFICE OF Revenue Collections	29.46%	75.09%	19.18%		20.23%
FIRE:					
Civilian	33.58%	26.44%	11.62%	*	28.32%
Sworn (Firefighters)	32.68%	17.66%	13.06% a.	*	26.06%
			10.11% b.		
			23.17% c.		
			Field Support Rate, Sworn only **		
GENERAL SERVICES:					
Materials Testing	31.28%	24.43%	9.27%	*	18.98%
Print Shop	33.50%	64.11%	12.44%	*	23.56%
HOUSING:					
Grant-Funded Housing	25.45%	10.43%	na	*	17.87%
Rent Control	27.75%	11.41%	na	*	17.87%
Internal Administration	27.48%	11.20%	na	*	17.87%
HUMAN RELATIONS COMMISSION	25.63%	75.13%	41.00%	*	19.99%
LIBRARY	34.53%	30.89%	28.95%	*	19.11%
LOS ANGELES CONVENTION CENTER	29.85%	11.93%	59.58%	*	21.01%
MAYOR:					
Executive/Policy	25.72%	56.26%	14.93%	*	20.92%
Grant Funded/Spec. Programs	24.29%	42.76%	17.54%	*	19.56%
Direct in City Space	29.44%	52.23%	67.71%	*	20.92%
NEIGHBORHOOD EMPOWERMENT	28.43%	34.75%	96.46%		13.44%
PERSONNEL:					
Custody Care (Jails)	29.92%	18.21%	39.24%	*	20.27%
Personnel Grant Funded/Spec. Programs	31.49%	23.28%	38.52%	*	20.27%
PLANNING	26.72%	33.44%	38.74%	*	18.78%
POLICE:					
Civilian	35.48%	16.99%	17.07%	*	25.87%
Sworn	36.41%	23.18%	41.77% a.	*	28.41%
			31.93% b.		
			73.70% c.		
			Field Support Rate, Sworn only **		

****NOTE:** For Fire and Police, the Field Support rate (line b.) captures overhead costs that are in addition to other Administrative and Support Costs. It has been added to the Department Administration rate on this schedule. Please use this combined rate (line c.) for sworn positions in field operations. For other, non-field sworn positions, do NOT use the Field Support rate; use only the regular Department Administration rate (line a.), together with the other (Fringe, Central Service and CTO) rates.

COST ALLOCATION PLAN 27 (CAP 27) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2004-05. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
PUBLIC WORKS, Board Office:					
Public Services	29.75%	68.34%	32.99%		19.80%
PW - Contract Administration:					
Construction Inspection	27.01%	11.77%	15.21%	48.38%	16.61%
PW - Engineering:					
Stormwater Facilities Engineering	28.72%	34.91%	20.95%	49.06%	18.41%
Wastewater Facilities Engineering	30.16%	27.48%	20.58%	60.07%	18.41%
Privately Financed & Assessment	30.19%	33.83%	20.89%	54.67%	18.41%
Street Improvements	29.91%	26.32%	20.38%	51.80%	18.41%
Municipal Facilities	28.98%	42.74%	20.47%	52.02%	18.41%
General Mapping & Survey	30.48%	30.90%	20.66%	186.65%	18.41%
PW - Sanitation					
Solid Waste Program	40.45%	96.68%	8.19%	*	21.23%
Wastewater/Stormwater Division	29.94%	24.03%	6.65%	*	21.23%
PW - Street Lighting	30.17%	56.37%	40.03%	*	19.87%
PW - Street Services	34.68%	77.64%	18.42%	*	27.26%
Street Maint General				141.79%	29.86%
Street Use Inspection				54.64%	26.56%
Lot Cleaning				195.45%	31.64%
Street Tree Division				192.03%	30.77%
Street Maint Administration					27.09%
ST MNT Facilities Maintenance					34.37%
Street Maint Executive					23.40%
Resurf & Reconstr Div				126.14%	27.42%
Special Proj Constr Div				95.62%	28.00%
Street Improvement Div				42.63%	25.46%
RECREATION & PARKS	41.57%	34.80%	14.23%	*	23.42%
TRANSPORTATION	38.48%	31.98%	17.55%	*	22.11%
TREASURER					
Cash Management & Street Bonds	24.40%	110.66%	52.08%		19.31%
Zoo Department	33.72%	17.44%	23.28%	*	26.69%

These ten Division Overhead rates, calculated by St. Services, assume that Equipment is billed as a direct cost. When such is done, the Central Services rate will be reduced to exclude the directly billed equipment.

Notes:

* Division Overhead includes costs of division heads, section supervisors, clerical and other support staff within divisions or sections. These costs are not part of the Department Administration rate, but are legitimate costs which should be recovered if allowed by your grantor. If these costs are not charged directly to a grant, a Division Overhead indirect cost rate should be calculated. To maintain consistency and insure that Division Overhead costs do not overlap with Department Administration costs, please contact CAP staff for assistance in calculating these rates. Public Works Division Overhead rates are computed by Public Works staff and published herein as a courtesy.

Instructions for Using Indirect Cost Rates

Modifying the rates. Usually departments use the CAP rates as published; however, situations may arise necessitating revision of the rates. **Your Department's CAP rate should be modified if your Department directly charges to a grant or fee payer any of the indirect costs, or if the grantor or fee payer directly provides any of the services listed on Attachment C.** For example, if you purchase a computer and the total cost is paid directly by a fee payer or grantor, your CAP rate must be reduced to avoid double billing for the directly charged item(s). This means: if the entity you are billing provides office space, telephone service, computers, vehicles, or any other item listed on Attachment C, your rates must be adjusted to exclude those items.

An example of the necessity for rate modification is the Police Department's bill to the Airports Department. Airports provides space, utilities, telephones and equipment for Police Department staff at the Airport substation. To properly bill the Airports Department for law enforcement services at this site, the Police Department indirect cost rates are revised to exclude the building use, building lease, equipment use, and telephone line items.

Contact the CAP Office for adjusted rates if any cost listed in Attachment C is directly billed to grants or fees, or if any of the listed services are provided by your client.

Using the rates as published. The CAP indirect cost rates are computed based on "gross annual salaries" **excluding** overtime. (For rates applicable to overtime salaries, please contact the CAP office.) Compensated time off (CTO) is included in this gross salaries base. (See Attachment C paragraph 5 for a definition of CTO.) The CAP Fringe Benefits, Central Services, and Department Administration indirect cost rates, therefore, must be applied to salaries which include CTO and exclude overtime. Please refer to the example below, where

Fringe Benefits Rate	=	28.10%	of Gross Salaries
Central Services Rate	=	39.77%	of Gross Salaries
Department Administration & Support Rate	=	18.87%	of Gross Salaries
Compensated Time Off Rate	=	16.26%	of Net Salaries

1. Assume Gross Salaries = \$ 1,000.00 *(Gross Salaries are salaries for straight time worked plus Compensated Time Off.)*

Given the above-listed indirect cost rates, and assuming your CTO costs are included in your salaries as billed, total indirect costs are calculated below:

- a. \$ 1,000 x 28.10% = \$ 281.00 Fringe Benefit Cost
 b. \$ 1,000 x 39.77% = \$ 397.70 Central Service Cost
 c. \$ 1,000 x 18.87% = \$ 188.70 Department Administration & Support Cost
 Sum of (a + b + c) = \$ 867.40

2. Assume Net Salaries = \$ 860.14 *(Net Salaries are salaries for straight time worked, not including Compensated Time Off. Such net salaries would typically be accumulated through direct charges in a cost accounting system.)*

Convert net salaries to gross salaries by adding CTO % of Net:

- a. Net Salary times CTO %: \$ 860.14 x 16.26% = \$ 139.86 = CTO Amount
 b. Net Salary plus CTO amt: \$ 860.14 + \$ 139.86 = \$ 1,000.00 = Gross Salaries
 c. \$ 1,000 x 28.10% = \$ 281.00 Fringe Benefit Cost
 d. \$ 1,000 x 39.77% = \$ 397.70 Central Service Cost
 e. \$ 1,000 x 18.87% = \$ 188.70 Department Administration & Support Cost
 Sum of (a + b + c) = \$ 867.40

REMINDER: CTO rates are to be used only when paid time off such as sick and vacation time are not directly charged to a special service or grant project. Please see Attachment C, paragraph 5 for further information.

COST ALLOCATION PLAN 27 INDIRECT COSTS INCLUDED IN RATE CALCULATIONS**1. Fringe Benefits Rate includes the department's share of the Citywide costs of:**

Retirement (Civilians)	Employee Assistance	Union Sponsored Benefits
Pensions (Fire/Police Sworn)	Ordinance Life Insurance	Unused Sick/Vacation Payout
FLEX Benefit Program	Medicare	Unemployment Insurance
- Health Insurance	Social Security	Workers' Compensation
- Dental Insurance	Part Time/Seasonal/Temporary	Hiring Hall Fringe
- Basic Life Insurance	(PST) 457 Retirement Plan	

2. Central Services Rate includes the department's share of the Citywide costs of:

Building Leases [GSD & Spec. Funds]	Equipment Use Allowance (Equipment costing \$5,000 & above)	General City Purposes [League Dues and audits]
Building Depreciation	Equipment Exp. Under \$5,000 (Equipment Costing under \$5,000)	Liability Claims
Computer Assets Depreciation (items costing \$5,000 & above)	Gas (Natural Gas Utility) [GSD]	Petroleum Products [GSD]
Communications Lease (Telephone bill)	Insurance on bond-financed assets	Vehicle Depreciation
		Water & Electricity
		Emergency Operations Organizatio
City Administrative Officer (CAO, formerly OARS)	COUNCIL & CLA	MAYOR
Budget		Department Liaison & Grants Citywide Coordinator
Employee Relations & Living Wage	EMPLOYEE RELATIONS BOARD	
Gen. Support (Finance, Systems, Productivity & Risk Management)		PERSONNEL
Dept Liaison/ Mgt. Analysis	ENVIRONMENTAL AFFAIRS	Workers' Compensation & Safety
Municipal Facilities Projects	Environmental Coordination	Personnel Balance of Dept.
		PUBLIC WORKS
CITY ATTORNEY	EMERGENCY PREPAREDNESS	Financial Management and
Civil Liability	Emergency Preparedness Coordination	Personnel Services
Employee Relations		Board Office
Municipal Counsel / Legis. Svcs.		Contract Admin:
Land Use	FINANCE	Office of Contract Compliance
Police Division	Citywide Collections	Engineering: General Engineering
		TREASURER
CITY CLERK	GENERAL SERVICES	Custody & Disbursement & Debt Administration
Council and Public Services	Building Services	
Records Management	Construction Division	
	Fleet Services	
	Assets Management (Leasing & Real Estat	PENSIONS: OVERHEADS ALLOCATED
CITY ETHICS COMMSSION	Mail & Messenger	
	Parking Services	TO PENSIONS. (Other Pension costs included in Fringe Benefits)
CONTROLLER	Supply Services	
Accounts Payable		
Budget & General Acctg.		CERS: OVERHEADS ALLOCATED
CAP	INFORMATION TECHNOLOGY	
FMIS	AGENCY (ITA)	TO CERS. (Other CERS costs included in Fringe Benefits)
Internal Audit	IT Services	
Payroll (incl. Fiscal Systems)	Communications Division	
Single Audit	Telecommunications (PPEB)	
Workers' Compensation		

INDIRECT COSTS INCLUDED IN CAP 27 RATE CALCULATIONS (continued)

3. Department Administration and Support Rate includes costs of support functions within a department:

The rate includes expenditures which: --- *benefit the department as a whole*
 --- *are NOT directly charged to a grant or fee program*
 --- *are NOT line operations.*

Expenditures include those of:

Accounting staff	Department Management (Gen. Mgr. & Asst. Gen. Mgrs)
Budget staff	Clerical Staff/word processing staff serving the entire department.
Payroll staff	Systems Staff (if serving the whole department, not a special project)
Personnel & training staff	Warehouse/inventory/stores staff
Inventory staff	Vehicle maintenance staff (Police & Fire only)

NOTE: The support costs discussed here must conform to Federal definitions of allowable overhead costs and are not necessarily the same as the City's General Administration and Support Program (GASP) in a departmental budget.

4. Division Overhead Rates include the costs of support functions within divisions:

The rate includes the salary and expenses of division heads, section supervisors, and other support within divisions which are not included in the Department Administration costs discussed above. For example, within the Bureau of Engineering, the City Engineer, Deputies, their secretaries and the Administration Division are included in the Department Administration indirect cost rate. Within operating divisions, division heads, assistant division heads, and their secretaries and division support staff are NOT included in the Department Administration rate.

To recover the overhead costs within a division, a department or bureau should directly charge the time of the division head, secretary, assistant division head, and other division support services to a project, or calculate an indirect cost rate to recover their costs. Please work with the CAP office when calculating such rates, to insure that Division Overhead costs do not overlap Department Administration costs.

5. Compensated Time Off Rate includes the salary paid to employees who are on paid leave such as:

Sick Leave	Jury Duty	Floating Holiday
Vacation	Bereavement leave	Injury on Duty
Holiday	Preventive Medicine	
Military Leave	Workers' Compensation (salary continuance	
Family Illness	paid by the employing department.)	

Special Note regarding CTO:

CTO rates are to be used only when sick, vacation, and other CTO hours are not directly charged to a fee or grant project. For employees who charge only part of their hours worked to a grant, their time off is usually not being charged to the project, so the cost of that time off must be recovered using the CTO Rate. For employees whose entire annual salary is charged to a fee or grant, CTO is recovered as they take their time off, and the CTO Rate is not to be used. When the CTO Rate is applied to net salaries, the amount derived is added to net salaries to create gross salaries. The derived gross salaries becomes the base against which the fringe benefit rate and other indirect cost rates described above are applied.

6. OTHER DEFINITIONS

- a. Gross Salaries - Total annual salaries, which include pay for time worked AND compensated time off.
- b. Net Salaries - Pay for time worked only, not including compensated time off.

**WAGES AND COUNT
SWORN EMPLOYEES
2004-2005**

CLASS CODE	TITLE	BONUS	03-04 AVG. SALARY	AVG BI- WKLY SALARY 04/05	HOURLY RATE	IND. FIELD @120.68% (CAP 26)	IND. ADMIN @ 92.79%CAP (26)	6-MONTH SALARY	ANNUAL SALARY
2214	POLICE OFFICER I		\$1,933.83	1,991.84	24.90	30.05	23.10	25,994	51,987
2214	POLICE OFFICER II		\$2,629.44	2,708.32	33.85	40.86	31.40	35,344	70,687
2214	POLICE OFFICER II	G	\$2,899.57	2,986.56	37.33	45.05	34.63	38,975	77,949
2214	POLICE OFFICER II	H	\$3,963.46	4,082.36	51.03	61.58	47.34	53,275	106,550
2214	POLICE OFFICER II	L	\$3,119.54	3,213.13	40.16	48.47	37.26	41,931	83,863
2214	POLICE OFFICER II	M	\$3,171.43	3,266.57	40.83	49.28	37.88	42,629	85,258
2214	POLICE OFFICER III		\$2,961.44	3,050.28	38.13	46.01	35.37	39,806	79,612
2214	POLICE OFFICER III	A	\$3,262.29	3,360.16	42.00	50.69	38.96	43,850	87,700
2214	POLICE OFFICER III	B	\$3,095.38	3,188.24	39.85	48.09	36.97	41,607	83,213
2214	POLICE OFFICER III	C	\$3,131.16	3,225.09	40.31	48.65	37.39	42,087	84,175
2214	POLICE OFFICER III	D	\$3,172.57	3,267.75	40.85	49.29	37.89	42,644	85,288
2214	POLICE OFFICER III	E	\$3,189.32	3,285.00	41.06	49.55	38.09	42,869	85,738
2214	POLICE OFFICER III	F	\$3,173.22	3,268.42	40.86	49.30	37.90	42,653	85,306
2214	POLICE OFFICER III	G	\$3,118.74	3,212.30	40.15	48.46	37.25	41,921	83,841
2214	POLICE OFFICER III	J	\$4,228.00	4,354.84	54.44	65.69	50.49	56,831	113,661
2214	POLICE OFFICER III	K	\$3,525.45	3,631.21	45.39	54.78	42.10	47,387	94,775
2214	POLICE OFFICER III	O	\$3,191.02	3,286.75	41.08	49.58	38.11	42,892	85,784
2214	POLICE OFFICER III	P	\$3,244.28	3,341.61	41.77	50.41	38.75	43,608	87,216
2214	POLICE OFFICER III	R	\$3,248.92	3,346.39	41.83	50.48	38.80	43,670	87,341
2214	POLICE OFFICER III	S	\$3,487.51	3,592.14	44.90	54.19	41.65	46,877	93,755
2214	POLICE OFFICER III	T	\$3,197.92	3,293.86	41.17	49.69	38.19	42,985	85,970
2214	POLICE OFFICER III	V	\$3,275.20	3,373.46	42.17	50.89	39.12	44,024	88,047
2214	POLICE OFFICER III	W	\$3,198.03	3,293.97	41.17	49.69	38.19	42,986	85,973
2217	POLICE SPECIALIST		\$1,998.64	2,058.60	25.73	31.05	23.87	26,865	53,729
2223	POLICE DETECTIVE I		\$3,176.60	3,271.90	40.90	49.36	37.94	42,698	85,397
2223	POLICE DETECTIVE I	K	\$3,729.35	3,841.23	48.02	57.94	44.54	50,128	100,256
2223	POLICE DETECTIVE I	L	\$3,336.00	3,436.08	42.95	51.83	39.84	44,841	89,682
2223	POLICE DETECTIVE II		\$3,413.08	3,515.47	43.94	53.03	40.76	45,877	91,754
2223	POLICE DETECTIVE II	K	\$4,014.40	4,134.83	51.69	62.37	47.94	53,960	107,919
2223	POLICE DETECTIVE II	L	\$3,649.27	3,758.75	46.98	56.70	43.58	49,052	98,103
2223	POLICE DETECTIVE II	Y	\$3,696.00	3,806.88	47.59	57.43	44.14	49,680	99,360
2223	POLICE DETECTIVE III		\$3,750.10	3,862.60	48.28	58.27	44.79	50,407	100,814
2223	POLICE DETECTIVE III	K	\$4,471.20	4,605.34	57.57	69.47	53.40	60,100	120,199

**WAGES AND COUNT
SWORN EMPLOYEES
2004-2005**

CLASS CODE	TITLE	BONUS	03-04 AVG. SALARY	AVG BI- WKLY SALARY 04/05	HOURLY RATE	IND. FIELD @120.68% (CAP 26)	IND. ADMIN @ 92.79%(CAP 26)	6-MONTH SALARY	ANNUAL SALARY
2223	POLICE DETECTIVE III	L	\$4,014.40	4,134.83	51.69	62.37	47.94	53,960	107,919
2227	POLICE SERGEANT I		\$3,396.84	3,498.75	43.73	52.78	40.57	45,659	91,317
2227	POLICE SERGEANT I	M	\$3,830.89	3,945.82	49.32	59.52	45.75	51,493	102,986
2227	POLICE SERGEANT I	T	\$3,991.68	4,111.43	51.39	62.02	47.67	53,654	107,308
2227	POLICE SERGEANT II		\$3,599.30	3,707.28	46.34	55.92	42.99	48,380	96,760
2227	POLICE SERGEANT II	G	\$3,804.00	3,918.12	48.98	59.10	45.43	51,131	102,263
2227	POLICE SERGEANT II	S	\$4,082.40	4,204.87	52.56	63.43	48.76	54,874	109,747
2227	POLICE SERGEANT II	T	\$3,872.00	3,988.16	49.85	60.16	46.24	52,045	104,091
2227	POLICE SERGEANT II	X	\$4,072.83	4,195.01	52.44	63.28	48.64	54,745	109,490
2232	POLICE LIEUTENANT I		\$4,001.77	4,121.82	51.52	62.18	47.79	53,790	107,580
2232	POLICE LIEUTENANT I	Q	\$4,471.20	4,605.34	57.57	69.47	53.40	60,100	120,199
2232	POLICE LIEUTENANT I	Y	\$4,720.80	4,862.42	60.78	73.35	56.38	63,455	126,909
2232	POLICE LIEUTENANT II		\$4,226.79	4,353.59	54.42	65.67	50.48	56,814	113,629
2232	POLICE LIEUTENANT II	Y	\$4,720.80	4,862.42	60.78	73.35	56.38	63,455	126,909
2244	POLICE CAPTAIN I		\$4,536.25	4,672.34	58.40	70.48	54.18	60,974	121,948
2244	POLICE CAPTAIN II		\$4,888.47	5,035.12	62.94	75.95	58.38	65,708	131,417
2244	POLICE CAPTAIN III		\$5,259.46	5,417.24	67.72	81.72	62.81	70,695	141,390
2251	POLICE COMMANDER		\$5,824.72	5,999.46	74.99	90.50	69.56	78,293	156,586
2262	POLICE DEPUTY CHIEF I		\$6,163.07	6,347.96	79.35	95.76	73.60	82,841	165,682
2262	POLICE DEPUTY CHIEF II		\$7,081.92	7,294.38	91.18	110.04	84.58	95,192	190,383
9359	CHIEF OF POLICE		\$9,317.20	9,596.72	119.96	144.77	111.27	125,237	250,474

WAGES AND COUNT
CIVILIAN 2004-05
revised 11/18/03

CLASS CODE	CLASS TITLE		AVG Bi-WEEKLY SALARY	HOURLY RATE	ADMIN @ 55.01% (CAP)	6 MONTH SALARY	ANNUAL SALARY	
1513	ACCOUNTANT I		\$ 1,688.00	\$ 1,721.76	\$ 21.52	\$ 11.84	\$ 22,469	\$ 44,938
1513	ACCOUNTANT II		\$ 1,828.80	\$ 1,865.38	\$ 23.32	\$ 12.83	\$ 24,343	\$ 48,686
1223	ACCOUNTING CLERK I		\$ 1,432.00	\$ 1,460.64	\$ 18.26	\$ 10.04	\$ 19,061	\$ 38,123
1223	ACCOUNTING CLERK II		\$ 1,639.20	\$ 1,671.98	\$ 20.90	\$ 11.50	\$ 21,819	\$ 43,639
4310	ANIMAL CARE TECHNICIAN		\$ 1,336.96	\$ 1,363.70	\$ 17.05	\$ 9.38	\$ 17,796	\$ 35,593
7922	ARCHITECT DRAFTING TECH				\$ 29.11	\$ 11.06	\$ 20,999	\$ 41,999
0603	ASSISTANT INSPECTOR GENERAL				\$ 26.32	\$ 26.32	\$ 49,954	\$ 99,907
6147	AUDIO VISUAL TECHNICIAN				\$ 12.15	\$ 12.15	\$ 23,065	\$ 46,131
1517	AUDITOR				\$ 14.04	\$ 14.04	\$ 26,643	\$ 53,287
3704	AUTO BODY BUILDER/REPAIRER				\$ 13.22	\$ 13.22	\$ 25,089	\$ 50,177
3706	AUTO BODY REPAIR SUPERVISOR I				\$ 13.71	\$ 13.71	\$ 26,026	\$ 52,051
3706	AUTO BODY REPAIR SUPERVISOR II		\$ 1,201.60	\$ 2,245.63	\$ 28.07	\$ 15.44	\$ 29,305	\$ 58,611
3707	AUTO ELECTRICIAN		\$ 1,884.80	\$ 1,922.50	\$ 24.03	\$ 13.22	\$ 25,089	\$ 50,177
3721	AUTO PAINTER		\$ 1,884.80	\$ 1,922.50	\$ 24.03	\$ 13.22	\$ 25,089	\$ 50,177
3595	AUTOMOTIVE DISP I		\$ 1,418.40	\$ 1,446.77	\$ 18.08	\$ 9.95	\$ 18,880	\$ 37,761
3595	AUTOMOTIVE DISP II		\$ 1,697.60	\$ 1,731.55	\$ 21.64	\$ 11.91	\$ 22,597	\$ 45,194
3714	AUTOMOTIVE SUPERVISOR		\$ 2,213.70	\$ 2,257.97	\$ 28.22	\$ 15.53	\$ 29,467	\$ 58,933
3338	BUILDING REPAIR SUPERVISOR		\$ 2,508.80	\$ 2,558.98	\$ 31.99	\$ 17.60	\$ 33,395	\$ 66,789
3333	BUILDING REPAIRER		\$ 1,506.40	\$ 1,536.53	\$ 19.21	\$ 10.57	\$ 20,052	\$ 40,103
3343	CABINET MAKER		\$ 2,008.80	\$ 2,048.98	\$ 25.61	\$ 14.09	\$ 26,739	\$ 53,478
3344	CARPENTER		\$ 2,008.80	\$ 2,048.98	\$ 25.61	\$ 14.09	\$ 26,739	\$ 53,478
7204	CARTOGRAPHER		\$ 1,807.60	\$ 1,843.75	\$ 23.05	\$ 12.68	\$ 24,061	\$ 48,122
7833	CHEMIST II		\$ 2,300.80	\$ 2,346.82	\$ 29.34	\$ 16.14	\$ 30,626	\$ 61,252
1249	CHIEF CLERK POLICE II		\$ 2,477.60	\$ 2,527.15	\$ 31.59	\$ 17.38	\$ 32,979	\$ 65,959
2237	CHIEF FORENSIC CHEMIST I		\$ 3,853.60	\$ 3,930.67	\$ 49.13	\$ 27.03	\$ 51,295	\$ 102,591
2237	CHIEF FORENSIC CHEMIST II		\$ 4,183.20	\$ 4,266.86	\$ 53.34	\$ 29.34	\$ 55,683	\$ 111,365
9374	CHIEF INFORMATION OFFICER		\$ 5,212.00	\$ 5,316.24	\$ 66.45	\$ 36.56	\$ 69,377	\$ 138,754
9182	CHIEF MANAGEMENT ANALYST		\$ 4,075.60	\$ 4,157.11	\$ 51.96	\$ 28.59	\$ 54,250	\$ 108,501
2384	CHIEF POLICE PSYCHOLOGIST		\$ 3,962.40	\$ 4,041.65	\$ 50.52	\$ 27.79	\$ 52,744	\$ 105,487
1141	CLERK		\$ 1,239.20	\$ 1,263.98	\$ 15.80	\$ 8.69	\$ 16,495	\$ 32,990
1321	CLERK STENOGRAPHER		\$ 1,406.00	\$ 1,434.12	\$ 17.93	\$ 9.86	\$ 18,715	\$ 37,431
1358	CLERK TYPIST		\$ 1,217.29	\$ 1,241.64	\$ 15.52	\$ 8.54	\$ 16,203	\$ 32,407
9734	COMMISSION EXECUTIVE ASSIST I		\$ 1,873.60	\$ 1,911.07	\$ 23.89	\$ 13.14	\$ 24,939	\$ 49,879
9734	COMMISSION EXECUTIVE ASSIST II		\$ 2,376.00	\$ 2,423.52	\$ 30.29	\$ 16.66	\$ 31,627	\$ 63,254
3689	COMMUNICATION ELECTRICIAN SUPERVISOR		\$ 2,421.60	\$ 2,470.03	\$ 30.88	\$ 16.98	\$ 32,234	\$ 64,468
3686	COMMUNICATIONS ELECTRICIAN		\$ 2,142.78	\$ 2,185.64	\$ 27.32	\$ 15.03	\$ 28,523	\$ 57,045
7610	COMMUNICATIONS ENGINEER		\$ 3,116.80	\$ 3,179.14	\$ 39.74	\$ 21.86	\$ 41,488	\$ 82,975
7607	COMMUNICATIONS ENGINEERING ASSOC. II		\$ 2,309.60	\$ 2,355.79	\$ 29.45	\$ 16.20	\$ 30,743	\$ 61,486

For FY 2003-2004. This worksheet has not been updated to reflect the average salary for FY 2004-2005.

For FY 2003-2004. This worksheet has not been updated to reflect the average salary for FY 2004-2005.

WAGES AND COUNT
CIVILIAN 2004-05
revised 11/18/03

CLASS CODE	CLASS TITLE		AVG BI-WEEKLY SALARY	HOURLY RATE	ADMIN @ 55.01% (CAP)	6 MONTH SALARY	ANNUAL SALARY				
2234	CRIMINALIST I	\$	1,892.91	\$	24.13	\$	13.28	\$	25,197	\$	50,393
2234	CRIMINALIST II	\$	2,917.08	\$	37.19	\$	20.46	\$	38,829	\$	77,659
2234	CRIMINALIST III	\$	3,156.20	\$	40.24	\$	22.14	\$	42,012	\$	84,024
3156	CUSTODIAL SERVICES ATTENDANT	\$	1,045.83	\$	13.33	\$	7.34	\$	13,921	\$	27,842
1433	DATA ENTRY OPERATOR II	\$	1,451.20	\$	18.50	\$	10.18	\$	19,317	\$	38,634
1136	DATA PROCESSING TECH I	\$	1,544.00	\$	19.69	\$	10.83	\$	20,552	\$	41,104
1121	DELIVERY DRIVER I	\$	1,240.00	\$	15.81	\$	8.70	\$	16,506	\$	33,011
1593	DEPT CHIEF ACCOUNTANT I	\$	2,956.80	\$	37.70	\$	20.74	\$	39,358	\$	78,716
1714	DEPT PERSONNEL OFFICER IV	\$	4,183.20	\$	53.34	\$	29.34	\$	55,683	\$	111,365
3211	DETENTION OFFICER	\$	1,551.75	\$	19.78	\$	10.88	\$	20,655	\$	41,311
3722	DIRECTOR OF POLICE TRANSP I	\$	2,800.00	\$	35.70	\$	19.64	\$	37,271	\$	74,542
3722	DIRECTOR OF POLICE TRANSP II	\$	4,183.20	\$	53.34	\$	29.34	\$	55,683	\$	111,365
9375	DIRECTOR OF SYSTEMS	\$	4,183.20	\$	53.34	\$	29.34	\$	55,683	\$	111,365
3799	ELECTRICAL CRAFT HELPER	\$	1,476.00	\$	18.82	\$	10.35	\$	19,647	\$	39,294
3863	ELECTRICIAN	\$	2,108.00	\$	26.88	\$	14.79	\$	28,060	\$	56,119
2352	EQUESTRIAN FACILITY SUPERVISOR	\$	2,088.80	\$	26.63	\$	14.65	\$	27,804	\$	55,608
3711	EQUIPMENT MECHANIC	\$	1,907.83	\$	24.32	\$	13.38	\$	25,395	\$	50,790
3229	EXAM QUESTIONED DOCUMENTS I	\$	1,685.60	\$	21.49	\$	11.82	\$	22,437	\$	44,874
3229	EXAM QUESTIONED DOCUMENTS II	\$	2,983.20	\$	38.04	\$	20.92	\$	39,709	\$	79,419
0600	EXECUTIVE DIRECTOR POLICE COMMISSION	\$	4,788.80	\$	61.06	\$	33.59	\$	63,744	\$	127,487
1117	EXECUTIVE SECRETARY II	\$	2,025.29	\$	25.82	\$	14.20	\$	26,959	\$	53,917
1117	EXECUTIVE SECRETARY III	\$	2,211.20	\$	28.19	\$	15.51	\$	29,433	\$	58,867
1157	FINGERPRINT IDEN. EXPERT I	\$	1,552.46	\$	19.79	\$	10.89	\$	20,665	\$	41,330
1157	FINGERPRINT IDEN. EXPERT II	\$	1,738.10	\$	22.16	\$	12.19	\$	23,136	\$	46,272
1157	FINGERPRINT IDEN. EXPERT III	\$	1,887.20	\$	24.06	\$	13.24	\$	25,121	\$	50,241
2233	FIREARMS EXAMINER	\$	2,983.20	\$	38.04	\$	20.92	\$	39,709	\$	79,419
1555	FISCAL SYSTEMS SPEC I	\$	2,980.80	\$	38.01	\$	20.91	\$	39,677	\$	79,355
1555	FISCAL SYSTEMS SPEC II	\$	3,295.20	\$	42.01	\$	23.11	\$	43,862	\$	87,725
2200	FORENSIC PRINT SPECIALIST I	\$	1,927.65	\$	24.58	\$	13.52	\$	25,659	\$	51,318
2200	FORENSIC PRINT SPECIALIST II	\$	2,095.64	\$	26.72	\$	14.70	\$	27,895	\$	55,790
2200	FORENSIC PRINT SPECIALIST III	\$	2,664.85	\$	33.98	\$	18.69	\$	35,472	\$	70,944
2200	FORENSIC PRINT SPECIALIST IV	\$	2,845.06	\$	36.27	\$	19.95	\$	37,871	\$	75,741
3531	GARAGE ATTENDANT	\$	1,269.81	\$	16.19	\$	8.91	\$	16,902	\$	33,805
3141	GARDENER CARETAKER	\$	1,275.73	\$	16.27	\$	8.95	\$	16,981	\$	33,962
3718	GENERAL AUTOMOTIVE SUPERVISOR	\$	2,911.20	\$	37.12	\$	20.42	\$	38,751	\$	77,502
7213	GEOGRAPHIC INFORMATION SPECIALIST	\$	1,802.40	\$	22.98	\$	12.64	\$	23,992	\$	47,983
7213	GEOGRAPHIC INFORMATION SYSTEMS SUPERVISOR I	\$	2,250.40	\$	28.69	\$	15.78	\$	29,955	\$	59,910
1670	GRAPHICS DESIGNER I	\$	1,616.80	\$	20.61	\$	11.34	\$	21,521	\$	43,042

WAGES AND COUNT
CIVILIAN 2004-05
revised 11/18/03

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	ADMIN @ 55.01% (CAP)	6 MONTH SALARY	ANNUAL SALARY
1670	GRAPHICS DESIGNER II	\$ 1,997.33	\$ 25.47	\$ 14.01	\$ 26,586	\$ 53,173
1326	HEARING REPORTER	\$ 1,959.20	\$ 24.98	\$ 13.74	\$ 26,079	\$ 52,158
0601	INSPECTOR GENERAL	\$ 4,788.80	\$ 61.06	\$ 33.59	\$ 63,744	\$ 127,487
7854	LABORATORY TECHNICIAN I	\$ 1,528.00	\$ 19.48	\$ 10.72	\$ 20,339	\$ 40,678
3115	MAINTENANCE & CONSTRUCT. HELPER	\$ 1,343.20	\$ 17.13	\$ 9.42	\$ 17,879	\$ 35,759
3112	MAINTENANCE LABORER	\$ 1,208.64	\$ 15.41	\$ 8.48	\$ 16,088	\$ 32,176
1508	MANAGEMENT AIDE	\$ 1,752.96	\$ 22.35	\$ 12.29	\$ 23,334	\$ 46,667
9184	MANAGEMENT ANALYST I	\$ 1,958.17	\$ 24.97	\$ 13.73	\$ 26,065	\$ 52,130
9184	MANAGEMENT ANALYST II	\$ 2,278.94	\$ 29.06	\$ 15.98	\$ 30,335	\$ 60,670
1539	MANAGEMENT ASSISTANT	\$ 1,550.38	\$ 19.77	\$ 10.87	\$ 20,637	\$ 41,274
3771	MECHANICAL HELPER	\$ 1,420.00	\$ 18.11	\$ 9.96	\$ 18,902	\$ 37,803
3773	MECHANICAL REPAIRER I	\$ 1,770.40	\$ 22.57	\$ 12.42	\$ 23,566	\$ 47,132
1779	OPER & STATS RES ANAL I	\$ 2,477.60	\$ 31.59	\$ 17.38	\$ 32,979	\$ 65,959
3423	PAINTER	\$ 1,924.80	\$ 24.54	\$ 13.50	\$ 25,621	\$ 51,242
3145	PARK MAINTENANCE SUPERVISOR	\$ 1,697.60	\$ 21.64	\$ 11.91	\$ 22,597	\$ 45,194
1170	PAYROLL SUPERVISOR I	\$ 2,153.60	\$ 27.46	\$ 15.10	\$ 28,667	\$ 57,333
1170	PAYROLL SUPERVISOR II	\$ 2,296.80	\$ 29.28	\$ 16.11	\$ 30,573	\$ 61,145
1739	PERSONNEL RESEARCH ANALYST II	\$ 2,388.80	\$ 30.46	\$ 16.75	\$ 31,797	\$ 63,595
1793	PHOTOGRAPHER I	\$ 1,617.20	\$ 20.62	\$ 11.34	\$ 21,527	\$ 43,053
1793	PHOTOGRAPHER II	\$ 1,918.93	\$ 24.47	\$ 13.46	\$ 25,543	\$ 51,086
1793	PHOTOGRAPHER III	\$ 2,094.21	\$ 26.70	\$ 14.69	\$ 27,876	\$ 55,752
3443	PLUMBER	\$ 2,197.60	\$ 28.02	\$ 15.41	\$ 29,252	\$ 58,505
9183	POLICE ADMINISTRATOR	\$ 4,536.00	\$ 57.83	\$ 31.81	\$ 60,379	\$ 120,757
9183	POLICE ADMINISTRATOR II	\$ 5,457.60	\$ 69.58	\$ 38.28	\$ 72,646	\$ 145,292
0101	POLICE COMMISSIONER					
1650	POLICE COMPOSITE ARTIST	\$ 1,624.80	\$ 20.72	\$ 11.40	\$ 21,628	\$ 43,255
3710	POLICE FLEET SERVICE SUPV I	\$ 1,969.60	\$ 25.11	\$ 13.81	\$ 26,217	\$ 52,435
0020	POLICE PERMIT REVIEW PANEL					
2382	POLICE PSYCHOLOGIST I	\$ 2,955.46	\$ 37.68	\$ 20.73	\$ 39,340	\$ 78,680
2382	POLICE PSYCHOLOGIST II	\$ 3,272.00	\$ 41.72	\$ 22.95	\$ 43,554	\$ 87,107
2207	POLICE SERVICE REPRESENTATIVE	\$ 1,875.90	\$ 23.92	\$ 13.16	\$ 24,970	\$ 49,940
3687	POLICE SURVEILLANCE SPECIALIST I	\$ 2,255.20	\$ 28.75	\$ 15.82	\$ 30,019	\$ 60,038
3687	POLICE SURVEILLANCE SPECIALIST II	\$ 2,591.20	\$ 33.04	\$ 18.17	\$ 34,491	\$ 68,983
2383	POLICE TRAINING ADMINISTRATOR	\$ 3,791.20	\$ 48.34	\$ 26.59	\$ 50,465	\$ 100,929
2240	POLYGRAPH EXAMINER I	\$ 1,754.40	\$ 22.37	\$ 12.30	\$ 23,353	\$ 46,706
2240	POLYGRAPH EXAMINER II	\$ 2,468.00	\$ 31.47	\$ 17.31	\$ 32,852	\$ 65,703
2240	POLYGRAPH EXAMINER III	\$ 2,527.20	\$ 32.22	\$ 17.73	\$ 33,640	\$ 67,279
2240	POLYGRAPH EXAMINER IV	\$ 3,066.40	\$ 39.10	\$ 21.51	\$ 40,817	\$ 81,634

WAGES AND COUNT
CIVILIAN 2004-05
 revised 11/18/03

CLASS CODE	CLASS TITLE		AVG BI-WEEKLY SALARY	HOURLY RATE	ADMIN @ 55.01% (CAP)	6 MONTH SALARY	ANNUAL SALARY
3215	PR DETENTION OFFICER		\$ 2,141.66	\$ 27.31	\$ 15.02	\$ 28,508	\$ 57,015
1158	PR FINGERPRINT IDEN. EXPERT I		\$ 2,080.00	\$ 26.52	\$ 14.59	\$ 27,687	\$ 55,374
1158	PR FINGERPRINT IDEN. EXPERT II		\$ 2,196.80	\$ 28.01	\$ 15.41	\$ 29,242	\$ 58,483
2203	PR FORENSIC PR SPECIALIST		\$ 3,305.60	\$ 42.15	\$ 23.18	\$ 44,001	\$ 88,002
3210	PR PROPERTY OFFICER		\$ 2,014.56	\$ 25.69	\$ 14.13	\$ 26,816	\$ 53,632
1525	PRINCIPAL ACCOUNTANT II		\$ 2,786.40	\$ 35.53	\$ 19.54	\$ 37,090	\$ 74,180
1152	PRINCIPAL CLERK POLICE II		\$ 1,898.36	\$ 24.20	\$ 13.31	\$ 25,269	\$ 50,538
1152	PRINCIPAL CLERK POLICE III		\$ 2,153.56	\$ 27.46	\$ 15.10	\$ 28,666	\$ 57,332
1794	PRINCIPAL PHOTOGRAPHER		\$ 2,772.00	\$ 35.34	\$ 19.44	\$ 36,898	\$ 73,796
1786	PRINCIPAL PUBLIC RELATIONS SPECIALIST		\$ 1,956.80	\$ 24.95	\$ 13.72	\$ 26,047	\$ 52,094
3207	PROPERTY OFFICER		\$ 1,537.66	\$ 19.61	\$ 10.78	\$ 20,468	\$ 40,936
1800	PUBLIC INFORMATION DIRECTOR I		\$ 2,504.80	\$ 31.94	\$ 17.57	\$ 33,341	\$ 66,683
1800	PUBLIC INFORMATION DIRECTOR II		\$ 2,730.40	\$ 34.81	\$ 19.15	\$ 36,344	\$ 72,689
1785	PUBLIC RELATIONS SPECIALIST I		\$ 1,432.80	\$ 18.27	\$ 10.05	\$ 19,072	\$ 38,144
1785	PUBLIC RELATIONS SPECIALIST II		\$ 1,641.60	\$ 20.93	\$ 11.51	\$ 21,851	\$ 43,703
1576	REHABILITATION TRAINEE/TRANSITIONAL WORKER		\$ 2,066.40	\$ 26.35	\$ 14.49	\$ 27,506	\$ 55,012
3162	REPROGRAPHICS OPERATOR I		\$ 1,404.80	\$ 17.91	\$ 9.85	\$ 18,699	\$ 37,399
1116	SECRETARY		\$ 1,716.70	\$ 21.89	\$ 12.04	\$ 22,851	\$ 45,702
3181	SECURITY OFFICER		\$ 1,313.73	\$ 16.75	\$ 9.21	\$ 17,487	\$ 34,974
1523	SENIOR ACCOUNTANT I		\$ 2,120.00	\$ 27.03	\$ 14.87	\$ 28,219	\$ 56,439
1523	SENIOR ACCOUNTANT II		\$ 2,296.80	\$ 29.28	\$ 16.11	\$ 30,573	\$ 61,145
1518	SENIOR AUDITOR		\$ 2,420.26	\$ 30.86	\$ 16.98	\$ 32,216	\$ 64,432
1323	SENIOR CLERK STENOGRAPHER		\$ 1,620.00	\$ 20.66	\$ 11.36	\$ 21,564	\$ 43,128
1368	SENIOR CLERK TYPIST		\$ 1,600.61	\$ 20.41	\$ 11.23	\$ 21,306	\$ 42,611
3716	SR AUTOMOTIVE SUPERVISOR		\$ 2,534.40	\$ 32.31	\$ 17.78	\$ 33,735	\$ 67,471
1143	SR CLERK		\$ 1,534.40	\$ 19.56	\$ 10.76	\$ 20,424	\$ 40,849
3157	SR CUSTODIAL SERVICES ATT I		\$ 1,156.80	\$ 14.75	\$ 8.11	\$ 15,398	\$ 30,796
3157	SR CUSTODIAL SERVICES ATT II		\$ 1,229.00	\$ 15.67	\$ 8.62	\$ 16,359	\$ 32,718
3212	SR DETENTION OFFICER		\$ 1,887.61	\$ 24.07	\$ 13.24	\$ 25,126	\$ 50,252
3712	SR EQUIPMENT MECHANIC		\$ 2,015.63	\$ 25.70	\$ 14.14	\$ 26,830	\$ 53,660
3231	SR EXAM QUESTIONED DOCUMENTS		\$ 3,392.80	\$ 43.26	\$ 23.80	\$ 45,162	\$ 90,323
2201	SR FORENSIC PR SPECIALIST		\$ 3,014.08	\$ 38.43	\$ 21.14	\$ 40,120	\$ 80,241
3533	SR GARAGE ATTENDANT		\$ 1,348.00	\$ 17.19	\$ 9.45	\$ 17,943	\$ 35,886
3143	SR GARDENER		\$ 1,506.40	\$ 19.21	\$ 10.57	\$ 20,052	\$ 40,103
9171	SR MANAGEMENT ANALYST I		\$ 2,746.68	\$ 35.02	\$ 19.26	\$ 36,561	\$ 73,122
9171	SR MANAGEMENT ANALYST II		\$ 3,198.10	\$ 40.78	\$ 22.43	\$ 42,570	\$ 85,140
9167	SR PERSONNEL ANALYST I		\$ 2,615.46	\$ 33.35	\$ 18.34	\$ 34,814	\$ 69,629
1795	SR PHOTOGRAPHER I		\$ 2,184.80	\$ 27.86	\$ 15.32	\$ 29,082	\$ 58,164

WAGES AND COUNT
CIVILIAN 2004-05
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CLASS CODE	CLASS TITLE		AVG BI-WEEKLY SALARY	HOURLY RATE	ADMIN @ 55.01% (CAP)	6 MONTH SALARY	ANNUAL SALARY						
1795	SR PHOTOGRAPHER II	\$	2,368.80	\$	2,416.18	\$	30.20	\$	16.61	\$	31,531	\$	63,062
2209	SR POLICE SERVICE REP I	\$	2,226.82	\$	2,271.36	\$	28.39	\$	15.62	\$	29,641	\$	59,282
2209	SR POLICE SERVICE REP II	\$	2,651.80	\$	2,704.84	\$	33.81	\$	18.60	\$	35,298	\$	70,596
3209	SR PROPERTY OFFICER	\$	1,812.28	\$	1,848.53	\$	23.11	\$	12.71	\$	24,123	\$	48,247
3184	SR SECURITY OFFICER	\$	1,561.60	\$	1,592.83	\$	19.91	\$	10.95	\$	20,786	\$	41,573
1837	SR STOREKEEPER I	\$	1,785.60	\$	1,821.31	\$	22.77	\$	12.52	\$	23,768	\$	47,536
1597	SR SYSTEMS ANALYST I	\$	2,762.07	\$	2,817.31	\$	35.22	\$	19.37	\$	36,766	\$	73,532
1597	SR SYSTEMS ANALYST II	\$	3,325.60	\$	3,392.11	\$	42.40	\$	23.33	\$	44,267	\$	88,534
6405	SR TRANSIT ANALYST	\$	2,732.80	\$	2,787.46	\$	34.84	\$	19.17	\$	36,376	\$	72,753
1835	STOREKEEPER I	\$	1,538.40	\$	1,569.17	\$	19.61	\$	10.79	\$	20,478	\$	40,955
1835	STOREKEEPER II	\$	1,492.80	\$	1,522.66	\$	19.03	\$	10.47	\$	19,871	\$	39,741
1502	STUDENT PROFESSIONAL WORKER	\$	776.80	\$	792.34	\$	9.90	\$	5.45	\$	10,340	\$	20,680
2235	SUPERVISING CRIMINALIST	\$	3,548.10	\$	3,619.06	\$	45.24	\$	24.89	\$	47,229	\$	94,458
1599	SYSTEMS AIDE	\$	1,785.82	\$	1,821.54	\$	22.77	\$	12.53	\$	23,771	\$	47,542
1596	SYSTEMS ANALYST I	\$	1,710.40	\$	1,744.61	\$	21.81	\$	12.00	\$	22,767	\$	45,534
1596	SYSTEMS ANALYST II	\$	2,195.80	\$	2,239.72	\$	28.00	\$	15.40	\$	29,228	\$	58,457
6401	TRANSIT AIDE	\$	1,673.20	\$	1,706.66	\$	21.33	\$	11.74	\$	22,272	\$	44,544
6402	TRANSIT ANALYST I	\$	2,016.80	\$	2,057.14	\$	25.71	\$	14.15	\$	26,846	\$	53,691
6403	TRANSIT DOC CONTR ASST	\$	1,576.00	\$	1,607.52	\$	20.09	\$	11.05	\$	20,978	\$	41,956
6400	TRANSIT SECRETARY	\$	1,735.60	\$	1,770.31	\$	22.13	\$	12.17	\$	23,103	\$	46,205
3583	TRUCK OPERATOR	\$	1,384.80	\$	1,412.50	\$	17.66	\$	9.71	\$	18,433	\$	36,866
3723	UPHOLSTERER	\$	1,884.80	\$	1,922.50	\$	24.03	\$	13.22	\$	25,089	\$	50,177
3796	WELDER	\$	1,992.80	\$	2,032.66	\$	25.41	\$	13.98	\$	26,526	\$	53,052
1832	WRHSE & TOOL RM WRKR I	\$	1,275.73	\$	1,301.24	\$	16.27	\$	8.95	\$	16,981	\$	33,962
7606		\$	1,852.00	\$	1,889.04	\$	23.61	\$	12.99	\$	24,652	\$	49,304

**WAGES AND COUNT
CIVILIAN 2004 -2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
0020	POLICE PERMIT REVIEW PANEL		\$ -	\$ -	\$ -
0101	POLICE COMMISSIONER		\$ -	\$ -	\$ -
0576	PARALEGAL I		\$ -	\$ -	\$ -
0600	EXECUTIVE DIRECTOR POLICE COMMISSION	\$ 5,557.06	\$ 69.46	\$ 72,520	\$ 145,039
0601	INSPECTOR GENERAL	\$ 5,502.26	\$ 68.78	\$ 71,804	\$ 143,609
0602-2	SPECIAL INVESTIGATOR II	\$ 3,402.05	\$ 42.53	\$ 44,397	\$ 88,793
0603	ASSISTANT INSPECTOR GENERAL	\$ 4,743.77	\$ 59.30	\$ 61,906	\$ 123,812
1101	OFFICE TRAINEE	\$ 905.78	\$ 11.32	\$ 11,820	\$ 23,641
1116	SECRETARY	\$ 1,968.33	\$ 24.60	\$ 25,687	\$ 51,373
1117-2	EXECUTIVE SECRETARY II	\$ 2,284.60	\$ 28.56	\$ 29,814	\$ 59,628
1117-3	EXECUTIVE SECRETARY III	\$ 2,565.94	\$ 32.07	\$ 33,485	\$ 66,971
1121-1	DELIVERY DRIVER I	\$ 1,439.53	\$ 17.99	\$ 18,786	\$ 37,572
1136	DATA PROCESSING TECH I		\$ -	\$ -	\$ -
1141	CLERK	\$ 1,409.70	\$ 17.62	\$ 18,397	\$ 36,793
1143	SR CLERK	\$ 1,828.46	\$ 22.86	\$ 23,861	\$ 47,723
1152-2	PRINCIPAL CLERK POLICE II	\$ 2,226.71	\$ 27.83	\$ 29,059	\$ 58,117
1152-3	PRINCIPAL CLERK POLICE III	\$ 2,432.10	\$ 30.40	\$ 31,739	\$ 63,478
1157-1	FINGERPRINT IDEN. EXPERT I	\$ 1,941.78	\$ 24.27	\$ 25,340	\$ 50,680
1157-2	FINGERPRINT IDEN. EXPERT II	\$ 2,031.41	\$ 25.39	\$ 26,510	\$ 53,020
1157-3	FINGERPRINT IDEN. EXPERT III	\$ 2,114.80	\$ 26.43	\$ 27,598	\$ 55,196
1158-1	PR FINGERPRINT IDEN. EXPERT I	\$ 2,411.85	\$ 30.15	\$ 31,475	\$ 62,949
1158-2	PR FINGERPRINT IDEN. EXPERT II	\$ 2,548.63	\$ 31.86	\$ 33,260	\$ 66,519
1170-1	PAYROLL SUPERVISOR I	\$ 2,500.84	\$ 31.26	\$ 32,636	\$ 65,272
1170-2	PAYROLL SUPERVISOR II	\$ 2,668.11	\$ 33.35	\$ 34,819	\$ 69,638
1223-1	ACCOUNTING CLERK I	\$ 1,651.10	\$ 20.64	\$ 21,547	\$ 43,094
1223-2	ACCOUNTING CLERK II	\$ 1,902.55	\$ 23.78	\$ 24,828	\$ 49,657
1249-2	CHIEF CLERK POLICE II	\$ 2,877.41	\$ 35.97	\$ 37,550	\$ 75,100
1321	CLERK STENOGRAPHER	\$ 1,545.99	\$ 19.32	\$ 20,175	\$ 40,350
1323	SENIOR CLERK STENOGRAPHER	\$ 1,930.63	\$ 24.13	\$ 25,195	\$ 50,389
1326	HEARING REPORTER	\$ 2,330.14	\$ 29.13	\$ 30,408	\$ 60,817
1358	CLERK TYPIST	\$ 1,453.95	\$ 18.17	\$ 18,974	\$ 37,948
1360	OFFICE SERVICES ASSISTANT	\$ 1,236.00	\$ 15.45	\$ 16,130	\$ 32,260

**WAGES AND COUNT
CIVILIAN 2004 -2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
1368	SENIOR CLERK TYPIST	\$ 1,812.09	\$ 22.65	\$ 23,648	\$ 47,296
1431-4	PROGRAMMER/ANALYST IV	\$ 3,306.71	\$ 41.33	\$ 43,153	\$ 86,305
1433-2	DATA ENTRY OPERATOR II	\$ 1,683.43	\$ 21.04	\$ 21,969	\$ 43,938
1502	STUDENT PROFESSIONAL WORKER	\$ 1,041.21	\$ 13.02	\$ 13,588	\$ 27,175
1508	MANAGEMENT AIDE	\$ 1,966.12	\$ 24.58	\$ 25,658	\$ 51,316
1513-1	ACCOUNTANT I			\$ -	\$ -
1513-2	ACCOUNTANT II	\$ 2,044.55	\$ 25.56	\$ 26,681	\$ 53,363
1517	AUDITOR	\$ 1,974.30	\$ 24.68	\$ 25,765	\$ 51,529
1518	SENIOR AUDITOR	\$ 2,565.11	\$ 32.06	\$ 33,475	\$ 66,949
1523-1	SENIOR ACCOUNTANT I	\$ 2,227.27	\$ 27.84	\$ 29,066	\$ 58,132
1523-2	SENIOR ACCOUNTANT II	\$ 2,412.67	\$ 30.16	\$ 31,485	\$ 62,971
1525-2	PRINCIPAL ACCOUNTANT II	\$ 3,235.02	\$ 40.44	\$ 42,217	\$ 84,434
1539	MANAGEMENT ASSISTANT	\$ 1,835.57	\$ 22.94	\$ 23,954	\$ 47,908
1555-1	FISCAL SYSTEMS SPEC I	\$ 3,459.15	\$ 43.24	\$ 45,142	\$ 90,284
1555-2	FISCAL SYSTEMS SPEC II	\$ 4,037.60	\$ 50.47	\$ 52,691	\$ 105,381
1576-2	REHAB TRAINEE/TRANSITIONAL WORKER	\$ 1,268.33	\$ 15.85	\$ 16,552	\$ 33,103
1593-2	DEPT CHIEF ACCOUNTANT II	\$ 3,821.71	\$ 47.77	\$ 49,873	\$ 99,747
1596-1	SYSTEMS ANALYST I	\$ 2,211.62	\$ 27.65	\$ 28,862	\$ 57,723
1596-2	SYSTEMS ANALYST II	\$ 2,623.84	\$ 32.80	\$ 34,241	\$ 68,482
1597-1	SR SYSTEMS ANALYST I	\$ 3,185.26	\$ 39.82	\$ 41,568	\$ 83,135
1597-2	SR SYSTEMS ANALYST II	\$ 3,918.94	\$ 48.99	\$ 51,142	\$ 102,284
1599	SYSTEMS AIDE	\$ 1,959.47	\$ 24.49	\$ 25,571	\$ 51,142
1650	POLICE COMPOSITE ARTIST		\$ -	\$ -	\$ -
1670-1	GRAPHICS DESIGNER I		\$ -	\$ -	\$ -
1670-2	GRAPHICS DESIGNER II	\$ 2,202.83	\$ 27.54	\$ 28,747	\$ 57,494
1714-4	DEPT PERSONNEL OFFICER IV		\$ -	\$ -	\$ -
1739	PERSONNEL RESEARCH ANALYST II		\$ -	\$ -	\$ -
1764-1	BACKGROUND INVESTIGATOR	\$ 2,096.95	\$ 26.21	\$ 27,365	\$ 54,730
1764-2	BACKGROUND INVESTIGATOR	\$ 2,331.10	\$ 29.14	\$ 30,421	\$ 60,842
1779-2	OPER & STATS RES ANAL II	\$ 3,249.86	\$ 40.62	\$ 42,411	\$ 84,821
1785-1	PUBLIC RELATIONS SPECIALIST I	\$ 1,781.90	\$ 22.27	\$ 23,254	\$ 46,508
1785-2	PUBLIC RELATIONS SPECIALIST II		\$ -	\$ -	\$ -

**WAGES AND COUNT
CIVILIAN 2004 -2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
1786	PRINCIPAL PUBLIC RELATIONS SPECIALIST	\$ 2,534.62	\$ 31.68	\$ 33,077	\$ 66,154
1793-1	PHOTOGRAPHER I	\$ 1,928.98	\$ 24.11	\$ 25,173	\$ 50,346
1793-2	PHOTOGRAPHER II	\$ 2,154.21	\$ 26.93	\$ 28,112	\$ 56,225
1793-3	PHOTOGRAPHER III	\$ 2,456.00	\$ 30.70	\$ 32,051	\$ 64,102
1794	PRINCIPAL PHOTOGRAPHER	\$ 3,216.07	\$ 40.20	\$ 41,970	\$ 83,939
1795-1	SR PHOTOGRAPHER I	\$ 2,603.02	\$ 32.54	\$ 33,969	\$ 67,939
1795-2	SR PHOTOGRAPHER II	\$ 2,756.28	\$ 34.45	\$ 35,969	\$ 71,939
1800-1	PUBLIC INFORMATION DIRECTOR I	\$ 3,239.97	\$ 40.50	\$ 42,282	\$ 84,563
1800-2	PUBLIC INFORMATION DIRECTOR II	\$ 3,728.60	\$ 46.61	\$ 48,658	\$ 97,316
1832-1	WRHSE & TOOL RM WRKR I	\$ 1,440.76	\$ 18.01	\$ 18,802	\$ 37,604
1832-2	WRHSE & TOOL RM WRKR II	\$ 1,635.64	\$ 20.45	\$ 21,345	\$ 42,690
1835-1	STOREKEEPER I	\$ 1,783.14	\$ 22.29	\$ 23,270	\$ 46,540
1835-2	STOREKEEPER II	\$ 1,827.63	\$ 22.85	\$ 23,851	\$ 47,701
1837-1	SR STOREKEEPER I	\$ 2,073.18	\$ 25.91	\$ 27,055	\$ 54,110
2200-1	FORENSIC PRINT SPECIALIST I		\$ -	\$ -	\$ -
2200-2	FORENSIC PRINT SPECIALIST II	\$ 2,542.00	\$ 31.77	\$ 33,173	\$ 66,346
2200-3	FORENSIC PRINT SPECIALIST III	\$ 3,010.13	\$ 37.63	\$ 39,282	\$ 78,564
2200-4	FORENSIC PRINT SPECIALIST IV	\$ 3,221.18	\$ 40.26	\$ 42,036	\$ 84,073
2202	POLICE SERVICE ASSISTANT	\$ 1,572.19	\$ 19.65	\$ 20,517	\$ 41,034
2201	SR FORENSIC PR SPECIALIST	\$ 3,536.28	\$ 44.20	\$ 46,148	\$ 92,297
2203	PR FORENSIC PR SPECIALIST	\$ 3,834.07	\$ 47.93	\$ 50,035	\$ 100,069
2207	POLICE SERVICE REPRESENTATIVE	\$ 1,758.25	\$ 21.98	\$ 22,945	\$ 45,890
2207-1	POLICE SERVICE REPRESENTATIVE	\$ 1,679.78	\$ 21.00	\$ 21,921	\$ 43,842
2207-2	POLICE SERVICE REPRESENTATIVE	\$ 2,136.54	\$ 26.71	\$ 27,882	\$ 55,764
2207-3	POLICE SERVICE REPRESENTATIVE	\$ 2,634.69	\$ 32.93	\$ 34,383	\$ 68,765
2209-1	SR POLICE SERVICE REP I	\$ 2,550.80	\$ 31.88	\$ 33,288	\$ 66,576
2209-2	SR POLICE SERVICE REP II	\$ 3,062.81	\$ 38.29	\$ 39,970	\$ 79,939
2233	FIREARMS EXAMINER	\$ 3,361.64	\$ 42.02	\$ 43,869	\$ 87,739
2233-1	FIREARMS EXAMINER	\$ 2,523.09	\$ 31.54	\$ 32,926	\$ 65,853
2234-1	CRIMINALIST I	\$ 2,328.93	\$ 29.11	\$ 30,393	\$ 60,785
2234-2	CRIMINALIST II	\$ 3,289.95	\$ 41.12	\$ 42,934	\$ 85,868
2234-3	CRIMINALIST III	\$ 3,623.50	\$ 45.29	\$ 47,287	\$ 94,573

**WAGES AND COUNT
CIVILIAN 2004 -2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
2235	SUPERVISING CRIMINALIST	\$ 3,936.25	\$ 49.20	\$ 51,368	\$ 102,736
2237-1	CHIEF FORENSIC CHEMIST I	\$ 4,289.74	\$ 53.62	\$ 55,981	\$ 111,962
2237-2	CHIEF FORENSIC CHEMIST II	\$ 4,852.54	\$ 60.66	\$ 63,326	\$ 126,651
2240-1	POLYGRAPH EXAMINER I	\$ 2,036.10	\$ 25.45	\$ 26,571	\$ 53,142
2240-2	POLYGRAPH EXAMINER II	\$ 2,785.81	\$ 34.82	\$ 36,355	\$ 72,710
2240-3	POLYGRAPH EXAMINER III	\$ 3,511.48	\$ 43.89	\$ 45,825	\$ 91,650
2240-4	POLYGRAPH EXAMINER IV	\$ 4,256.40	\$ 53.21	\$ 55,546	\$ 111,092
2262-A	DEPUTY CHIEF	\$ 6,423.90	\$ 80.30	\$ 83,832	\$ 167,664
2352	EQUESTRIAN FACILITY SUPERVISOR		\$ -	\$ -	\$ -
2382-1	POLICE PSYCHOLOGIST I	\$ 3,691.08	\$ 46.14	\$ 48,169	\$ 96,337
2382-2	POLICE PSYCHOLOGIST II	\$ 4,440.54	\$ 55.51	\$ 57,949	\$ 115,898
2383	POLICE TRAINING ADMINISTRATOR	\$ 4,399.34	\$ 54.99	\$ 57,411	\$ 114,823
2384	CHIEF POLICE PSYCHOLOGIST	\$ 4,852.54	\$ 60.66	\$ 63,326	\$ 126,651
3112	MAINTENANCE LABORER	\$ 1,474.05	\$ 18.43	\$ 19,236	\$ 38,473
3115	MAINTENANCE & CONSTRUCT. HELPER		\$ -	\$ -	\$ -
3141	GARDENER CARETAKER	\$ 1,558.18	\$ 19.48	\$ 20,334	\$ 40,669
3143	SR GARDENER	\$ 1,748.53	\$ 21.86	\$ 22,818	\$ 45,637
3145	PARK MAINTENANCE SUPERVISOR	\$ 2,080.60	\$ 26.01	\$ 27,152	\$ 54,304
3156	CUSTODIAL SERVICES ATTENDANT	\$ 1,226.94	\$ 15.34	\$ 16,012	\$ 32,023
3157-1	SR CUSTODIAL SERVICES ATT I		\$ -	\$ -	\$ -
3157-2	SR CUSTODIAL SERVICES ATT II		\$ -	\$ -	\$ -
3162-1	REPROGRAPHICS OPERATOR I	\$ 1,628.22	\$ 20.35	\$ 21,248	\$ 42,497
3181	SECURITY OFFICER	\$ 1,625.75	\$ 20.32	\$ 21,216	\$ 42,432
3184	SR SECURITY OFFICER	\$ 1,811.15	\$ 22.64	\$ 23,636	\$ 47,271
3207	PROPERTY OFFICER	\$ 1,776.68	\$ 22.21	\$ 23,186	\$ 46,371
3209	SR PROPERTY OFFICER	\$ 2,139.10	\$ 26.74	\$ 27,915	\$ 55,831
3210	PR PROPERTY OFFICER	\$ 2,345.93	\$ 29.32	\$ 30,614	\$ 61,229
3211	DETENTION OFFICER	\$ 1,824.46	\$ 22.81	\$ 23,809	\$ 47,618
3212	SR DETENTION OFFICER	\$ 2,179.60	\$ 27.25	\$ 28,444	\$ 56,888
3215	PR DETENTION OFFICER	\$ 2,493.95	\$ 31.17	\$ 32,546	\$ 65,092
3229-1	EXAM QUESTIONED DOCUMENTS I		\$ -	\$ -	\$ -
3229-2	EXAM QUESTIONED DOCUMENTS II	\$ 3,249.86	\$ 40.62	\$ 42,411	\$ 84,821

**WAGES AND COUNT
CIVILIAN 2004 - 2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
3231	SR EXAM QUESTIONED DOCUMENTS	\$ 3,936.25	\$ 49.20	\$ 51,368	\$ 102,736
3333-1	BUILDING REPAIRER	\$ 1,658.71	\$ 20.73	\$ 21,646	\$ 43,292
3338	BUILDING REPAIR SUPERVISOR	\$ 2,911.19	\$ 36.39	\$ 37,991	\$ 75,982
3343	CABINET MAKER	\$ 2,283.30	\$ 28.54	\$ 29,797	\$ 59,594
3344	CARPENTER	\$ 2,283.30	\$ 28.54	\$ 29,797	\$ 59,594
3423	PAINTER	\$ 2,188.54	\$ 27.36	\$ 28,560	\$ 57,121
3443	PLUMBER	\$ 2,498.37	\$ 31.23	\$ 32,604	\$ 65,207
3531	GARAGE ATTENDANT	\$ 1,505.08	\$ 18.81	\$ 19,641	\$ 39,283
3533	SR GARAGE ATTENDANT	\$ 1,563.95	\$ 19.55	\$ 20,410	\$ 40,819
3583	TRUCK OPERATOR	\$ 1,748.53	\$ 21.86	\$ 22,818	\$ 45,637
3595-1	AUTOMOTIVE DISP I	\$ 1,568.90	\$ 19.61	\$ 20,474	\$ 40,948
3595-2	AUTOMOTIVE DISP II	\$ 1,969.36	\$ 24.62	\$ 25,700	\$ 51,400
3686	COMMUNICATIONS ELECTRICIAN	\$ 2,397.84	\$ 29.97	\$ 31,292	\$ 62,584
3687	POLICE SURVEILLANCE SPECIALIST	\$ 2,369.82	\$ 29.62	\$ 30,926	\$ 61,852
3687-1	POLICE SURVEILLANCE SPECIALIST I	\$ 2,583.42	\$ 32.29	\$ 33,714	\$ 67,427
3687-2	POLICE SURVEILLANCE SPECIALIST II	\$ 2,946.62	\$ 36.83	\$ 38,453	\$ 76,907
3689	COMMUNICATION ELECTRICIAN SUPERVISOR		\$ -	\$ -	\$ -
3704-5	AUTO BODY BUILDER/REPAIRER	\$ 2,161.01	\$ 27.01	\$ 28,201	\$ 56,402
3706-F	AUTO BODY REPAIR SUPERVISOR	\$ 2,268.47	\$ 28.36	\$ 29,604	\$ 59,207
3706-2	AUTO BODY REPAIR SUPERVISOR II	\$ 2,553.58	\$ 31.92	\$ 33,324	\$ 66,648
3707-5	AUTO ELECTRICIAN	\$ 2,184.42	\$ 27.31	\$ 28,507	\$ 57,013
3710-1	POLICE FLEET SERVICE SUPV I	\$ 2,283.30	\$ 28.54	\$ 29,797	\$ 59,594
3711-5	EQUIPMENT MECHANIC	\$ 2,200.15	\$ 27.50	\$ 28,712	\$ 57,424
3712-5	SR EQUIPMENT MECHANIC	\$ 2,325.68	\$ 29.07	\$ 30,350	\$ 60,700
3714	AUTOMOTIVE SUPERVISOR	\$ 2,547.29	\$ 31.84	\$ 33,242	\$ 66,484
3716	SR AUTOMOTIVE SUPERVISOR	\$ 2,825.50	\$ 35.32	\$ 36,873	\$ 73,745
3718	GENERAL AUTOMOTIVE SUPERVISOR	\$ 3,376.75	\$ 42.21	\$ 44,067	\$ 88,133
3721-5	AUTO PAINTER	\$ 2,184.42	\$ 27.31	\$ 28,507	\$ 57,013
3722-1	DIRECTOR OF POLICE TRANSP I	\$ 3,821.71	\$ 47.77	\$ 49,873	\$ 99,747
3722-2	DIRECTOR OF POLICE TRANSP II	\$ 4,852.54	\$ 60.66	\$ 63,326	\$ 126,651
3723-5	UPHOLSTERER	\$ 2,184.42	\$ 27.31	\$ 28,507	\$ 57,013
3771	MECHANICAL HELPER	\$ 1,644.70	\$ 20.56	\$ 21,463	\$ 42,927

**WAGES AND COUNT
CIVILIAN 2004 -2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
3773-1	MECHANICAL REPAIRER I	\$ 2,094.61	\$ 26.18	\$ 27,335	\$ 54,669
3796	WELDER	\$ 2,310.50	\$ 28.88	\$ 30,152	\$ 60,304
3799	ELECTRICAL CRAFT HELPER	\$ 1,680.14	\$ 21.00	\$ 21,926	\$ 43,852
3863	ELECTRICIAN	\$ 2,397.84	\$ 29.97	\$ 31,292	\$ 62,584
4310	ANIMAL CARE TECHNICIAN	\$ 1,334.88	\$ 16.69	\$ 17,420	\$ 34,840
4322	EQUINE KEEPER	\$ 1,616.89	\$ 20.21	\$ 21,100	\$ 42,201
6147	AUDIO VISUAL TECHNICIAN	\$ 2,144.46	\$ 26.81	\$ 27,985	\$ 55,970
6400	TRANSIT SECRETARY	\$ 1,985.84	\$ 24.82	\$ 25,915	\$ 51,830
6401	TRANSIT AIDE	\$ 1,959.47	\$ 24.49	\$ 25,571	\$ 51,142
6402	TRANSIT ANALYST I		\$ -	\$ -	\$ -
6403	TRANSIT DOC CONTR ASST		\$ -	\$ -	\$ -
6405	SR TRANSIT ANALYST	\$ 3,259.74	\$ 40.75	\$ 42,540	\$ 85,079
7204	CARTOGRAPHER	\$ 2,041.05	\$ 25.51	\$ 26,636	\$ 53,271
7213	GEOGRAPHIC INFORMATION SPECIALIST	\$ 2,329.45	\$ 29.12	\$ 30,399	\$ 60,799
7214-1	GEOGRAPHIC INFO SYSTEMS SUPERVISOR I	\$ 2,612.90	\$ 32.66	\$ 34,098	\$ 68,197
7607-1	COMMUNICATIONS ENGINEERING ASSOC. I	\$ 2,529.68	\$ 31.62	\$ 33,012	\$ 66,025
7610	COMMUNICATIONS ENGINEER	\$ 3,614.89	\$ 45.19	\$ 47,174	\$ 94,349
7833-2	CHEMIST II	\$ 2,670.58	\$ 33.38	\$ 34,851	\$ 69,702
7854-1	LABORATORY TECHNICIAN I	\$ 1,640.79	\$ 20.51	\$ 21,412	\$ 42,825
7854-2	LABORATORY TECHNICIAN II		\$ -	\$ -	\$ -
7922	ARCHITECT DRAFTING TECH	\$ 2,154.76	\$ 26.93	\$ 28,120	\$ 56,239
9167-1	SR PERSONNEL ANALYST I	\$ 3,126.10	\$ 39.08	\$ 40,796	\$ 81,591
9167-2	SR PERSONNEL ANALYST II	\$ 3,827.07	\$ 47.84	\$ 49,943	\$ 99,886
9184-1	MANAGEMENT ANALYST I	\$ 2,320.38	\$ 29.00	\$ 30,281	\$ 60,562
9184-2	MANAGEMENT ANALYST II	\$ 2,677.24	\$ 33.47	\$ 34,938	\$ 69,876
9171-1	SR MANAGEMENT ANALYST I	\$ 3,193.43	\$ 39.92	\$ 41,674	\$ 83,349
9171-2	SR MANAGEMENT ANALYST II	\$ 3,806.14	\$ 47.58	\$ 49,670	\$ 99,340
9182	CHIEF MANAGEMENT ANALYST		\$ -	\$ -	\$ -
9183-1	POLICE ADMINISTRATOR		\$ -	\$ -	\$ -
9183-2	POLICE ADMINISTRATOR II		\$ -	\$ -	\$ -
9196-1	POLICE ADMINISTRATOR I	\$ 4,535.09	\$ 56.69	\$ 59,183	\$ 118,366
9196-2	POLICE ADMINISTRATOR II	\$ 5,557.06	\$ 69.46	\$ 72,520	\$ 145,039

**WAGES AND COUNT
CIVILIAN 2004 -2005 - INCLUDES ANTICIPATED SALARY INCREASES**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	6 MONTH SALARY	ANNUAL SALARY
9196-3	POLICE ADMINISTRATOR III	\$ 6,220.10	\$ 77.75	\$ 81,172	\$ 162,345
9359	CHIEF OF POLICE	\$ 9,718.26	\$ 121.48	\$ 126,823	\$ 253,646
9374	CHIEF INFORMATION OFFICER	\$ 6,320.49	\$ 79.01	\$ 82,482	\$ 164,965
9375	DIRECTOR OF SYSTEMS	\$ 4,852.54	\$ 60.66	\$ 63,326	\$ 126,651
9734-1	COMMISSION EXECUTIVE ASSIST I	\$ 2,177.01	\$ 27.21	\$ 28,410	\$ 56,820
9734-2	COMMISSION EXECUTIVE ASSIST II	\$ 2,635.98	\$ 32.95	\$ 34,399	\$ 68,799

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS				For State Controller Use Only (19) Program Number 00187 (20) Date Filed __/__/__ (21) LRSInput __/__/__		Program <div style="font-size: 2em; font-weight: bold;">187</div>			
(01) Claimant Identification Number <div style="text-align: center; font-weight: bold;">9819487</div>				Reimbursement Claim Data					
(02) Claimant Name <div style="text-align: center; font-weight: bold;">City of Los Angeles</div>				(22) PPBR-1,(03)(a)		<div style="font-size: 1.5em;">0</div>			
County of Location <div style="text-align: center; font-weight: bold;">Los Angeles</div>				(23) PPBR-1,(03)(b)		<div style="font-size: 1.5em;">4,721</div>			
Street Address or P.O. Box Suite <div style="text-align: center; font-weight: bold;">150 N. Los Angeles Street Room 712</div>				(24) PPBR-1,(03)(c)		<div style="font-size: 1.5em;">4,721</div>			
City State Zip Code <div style="text-align: center; font-weight: bold;">Los Angeles CA 90012</div>				(25) PPBR-1,(03)(d)		<div style="font-size: 1.5em;">0</div>			
Type of Claim		Estimated Claim		Reimbursement Claim		(26) PPBR-1,(04)(1)(e)		<div style="font-size: 1.5em;">571,342</div>	
(03) Estimated <input checked="" type="checkbox"/>		(09) Reimbursement <input checked="" type="checkbox"/>		(27) PPBR-1,(04)(2)(e)		<div style="font-size: 1.5em;">0</div>			
(04) Combined <input type="checkbox"/>		(10) Combined <input type="checkbox"/>		(28) PPBR-1,(04)(3)(e)		<div style="font-size: 1.5em;">2,361,831</div>			
(05) Amended <input type="checkbox"/>		(11) Amended <input type="checkbox"/>		(29) PPBR-1,(04)(4)(e)		<div style="font-size: 1.5em;">3,968,413</div>			
Fiscal Year of Cost		(06) <div style="text-align: center; font-weight: bold;">2006-2007</div>		(12) <div style="text-align: center; font-weight: bold;">2005-2006</div>		(30) PPBR-1,(06)		<div style="font-size: 1.5em;">51.67, 29.34</div>	
Total Claimed Amount		(07) <div style="text-align: center; font-weight: bold;">\$7,516,388</div>		(13) <div style="text-align: center; font-weight: bold;">\$9,395,485</div>		(31) PPBR-1,(07)		<div style="font-size: 1.5em;">2,493,899</div>	
LESS: 10% Late Penalty, not to exceed \$1,000				(14)		(32) PPBR-1,(09)		<div style="font-size: 1.5em;">0</div>	
LESS: Estimated Claim Payment Received				(15)		(33) PPBR-1,(10)		<div style="font-size: 1.5em;">0</div>	
Net Claimed Amount				(16) <div style="text-align: center; font-weight: bold;">\$9,395,485</div>		(34)			
Due from State		(08) <div style="text-align: center; font-weight: bold;">\$7,516,388</div>		(17) <div style="text-align: center; font-weight: bold;">\$9,395,485</div>		(35)			
Due to State				(18)		(36)			
(37) CERTIFICATION OF CLAIM <p>In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under the penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 through 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> Signature of Authorized Officer <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-weight: bold;">Laura Filatoff</div> <div style="font-size: 0.8em;">Print or type name</div> </div> <div style="width: 45%;"> Date <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-weight: bold;">Commanding Officer, FOD</div> <div style="font-size: 0.8em;">Title</div> </div> </div> <div style="margin-top: 10px;"> (38) Name of Contact Person for Claim <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Ginger Bernard (MAXIMUS) </div> <div style="width: 45%;"> <div style="display: flex; justify-content: space-between;"> <div>Telephone Number</div> <div>(916) 485-8102</div> <div>X</div> <div>112</div> </div> <div style="display: flex; justify-content: space-between;"> <div>E-mail Address</div> <div>gingerbernard@maximus.com</div> </div> </div> </div> </div>									

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY	FORM PPBR-1
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(01) Claimant: City of Los Angeles

(02) Fiscal year costs were incurred:

2005-2006

Claim Statistics

(03)	(a) Number of cases in process at the beginning of the fiscal year	0
	(b) Number of new cases added during the fiscal year	4721
	(c) Number of cases completed or closed during the fiscal year	4721
	(d) Number of cases in process at the end of the year	0

Direct Costs

(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Travel and Training	(e) Total
1. Administrative Activities	\$412,695	\$158,647			\$571,342
2. Administrative Appeal					
3. Interrogations	\$1,706,155	\$655,676			\$2,361,831
4. Adverse Comment	\$2,866,552	\$1,101,861			\$3,968,413
(05) Total Direct Costs	\$4,985,402	\$1,916,184			\$6,901,586

Indirect Costs

(06) Indirect Cost Rate (From ICRP)	Salary and Wages	See Summary
(07) Indirect Costs	[Line (06) x Line (05)(a)]	\$2,493,899
(08) Total Direct and Indirect Costs	[Line (05)(e) + Line (07)]	\$9,395,485

Cost Reductions

(09) Less Offsetting Savings, if applicable	
(10) Less Other Reimbursements, if applicable	
(11) Total Claimed Amount:	(Line(08)- [Line (09) + Line(10)]) \$9,395,485

Revised 09/03

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2005-2006				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input checked="checked" type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)						Object Accounts		
(a)	(b)	(c)	(d)	(e)	(f)	(g)		
Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	Hourly Rate or Unit Cost	Benefit Rate	Hours Worked / Quantity	Services and Supplies	Travel and Training	Salaries	Benefits	Total Sal. & Bens
<p>The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i></p> <p>The following staff spent time performing Administrative Activities related to the POBAR process. This includes updating the status of the POBAR cases.</p>								
Captain II	\$87.88	38.4%	566.52			\$49,786	\$19,133	\$68,918
Captain III	\$93.85	38.4%	802.57			\$75,321	\$28,946	\$104,267
Lieutenant	\$69.33	38.4%	94.42			\$6,546	\$2,516	\$9,062
Lieutenant II	\$73.48	38.4%	141.63			\$10,407	\$3,999	\$14,406
Sergeant I	\$59.36	38.4%	236.05			\$14,012	\$5,385	\$19,397
Sergeant II	\$62.67	38.4%	566.52			\$35,504	\$13,644	\$49,148
Detective II	\$59.28	38.4%	1038.62			\$61,569	\$23,661	\$85,231
Detective III	\$65.29	38.4%	1510.72			\$98,635	\$37,905	\$136,540
Sr. Clerk Typist**	\$28.73	38.5%	613.73			\$17,632	\$6,790	\$24,423
Clerk Typist**	\$23.21	38.5%	566.52			\$13,149	\$5,064	\$18,213
Principal Clerk Police II**	\$35.46	38.5%	849.78			\$30,133	\$11,604	\$41,737
Total Cases	4721							
<p>**See attached Indirect Cost breakdown for Civilian and Sworn employees</p> <p><u>Please see attached FTE calculations.</u></p> <p>Civilian 1647 hours Sworn 1618 hours</p>								
<p>The agency named above has made every effort not to include costs relating to the "Skelly Process".</p>								
(05) Total ()		Subtotal ()		Page: ____ of ____		\$412,695	\$158,647	\$571,342

Program
187

MANDATED COSTS
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
COMPONENT / ACTIVITY COST DETAIL

FORM
PPBR-2

(01) Claimant: **City of Los Angeles**

(02) Fiscal year costs were incurred:

2005-2006

(03) Reimbursable Components: Check ONLY one box per form to identify the component being claimed.

☐ Administrative Activities

☒ Administrative Appeal

☐ Interrogations

☐ Adverse Comment

(04) Description of Expense: Complete columns (a) through (g)

Object Accounts

(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
<u>Preparation and review of documents to proceed with administrative hearing, including legal review and providing assistance with the hearing.</u>								

The agency named above has made every effort not to include costs relating to the "Skelly Process".

(05) Total () Subtotal ()

Page: ____ of ____

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL	FORM PPBR-2						
(01) Claimant: City of Los Angeles		(02) Fiscal year costs were incurred: 2005-2006						
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Administrative Activities <input checked="" type="checkbox"/> Interrogations </div> <div> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Adverse Comment </div> </div>								
(04) Description of Expense: Complete columns (a) through (g)								
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g) Object Accounts		
						Salaries	Benefits	Total Sal. & Bens
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The following staff spent time providing prior notice to the peace officer under investigation regarding the nature of the interrogation. This includes reviewing the complaints to prepare the notice of interrogation, determining the investigating officers, prep. of notice, and presentation of complaint to the peace officer.								
Detective I	\$55.42	38.4%	3205.56			\$177,652	\$68,272	\$245,924
Detective II	\$59.28	38.4%	3540.75			\$209,896	\$80,663	\$290,559
Detective III	\$65.29	38.4%	2983.67			\$194,804	\$74,863	\$269,667
Sergeant I	\$59.36	38.4%	3408.56			\$202,332	\$77,756	\$280,089
Sergeant II	\$62.67	38.4%	3951.48			\$247,639	\$95,168	\$342,807
Lieutenant II	\$73.48	38.4%	4777.65			\$351,062	\$134,913	\$485,975
Total Cases			4721					
The following staff represents witness and subject time spent in interrogations. Peace Officer II - Witness .41/hr per case (23%) Peace Officer II -Subject - 1.375/hr per case (77%) <i>1.786/hr is the total interrogation time spent by the witness or subject officer on the phone or in person. 77% of this time is spent on the subject, 23% on the witness. On average 21% of the cases result in discipline. Since the interrogation of a subject officer who is disciplined is not eligible, the subject officer claimed time for only 79% of the cases, or 3730 cases.</i>	\$45.69	38.4%	1935.61			\$88,438	\$33,987	\$122,425
	\$45.69	38.4%	5128.75			\$234,333	\$90,054	\$324,387
<u>Please see attached FTE calculations.</u> Civilian 1647 hours Sworn 1618 hours The agency named above has made every effort not to include costs relating to the "Skelly Process".								
(05) Total () Subtotal ()				Page: ____ of ____		\$1,706,155	\$655,676	\$2,361,831

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2005-2006				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input checked="" type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)					Object Accounts			
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The above individuals spent time reviewing the circumstances or documentation leading to an adverse comment, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to the officer and notification concerning rights regarding the same; review of response and attaching same to adverse comment.								
Lieutenant I	\$69.33	38.4%	3163.07			\$219,296	\$84,275	\$303,571
Lieutenant II	\$73.48	38.4%	4390.53			\$322,616	\$123,981	\$446,598
Captain I	\$77.98	38.4%	2124.45			\$165,665	\$63,665	\$229,330
Captain II	\$87.88	38.4%	3068.65			\$269,673	\$103,635	\$373,308
Captain III	\$93.85	38.4%	2690.97			\$252,548	\$97,054	\$349,602
Sergeant I	\$59.36	38.4%	9583.63			\$568,884	\$218,622	\$787,507
Sergeant II	\$62.67	38.4%	3163.07			\$198,230	\$76,180	\$274,409
Detective I	\$55.42	38.4%	236.05			\$13,082	\$5,027	\$18,109
Detective II	\$59.28	38.4%	4390.53			\$260,271	\$100,022	\$360,293
Detective III	\$65.29	38.4%	3446.33			\$225,011	\$86,472	\$311,483
Police Officer II	\$45.69	38.4%	1416.30			\$64,711	\$24,868	\$89,579
Clerk Typist**	\$23.21	38.5%	236.05			\$5,479	\$2,110	\$7,589
Sr. Clerk Typist**	\$28.73	38.5%	1793.98			\$51,541	\$19,848	\$71,390
Police Service Representative**	\$27.05	38.5%	1746.77			\$47,250	\$18,196	\$65,446
Management Analyst II**	\$42.95	38.5%	3540.75			\$152,075	\$58,564	\$210,639
Principal Clerk Police II**	\$35.46	38.5%	1416.30			\$50,222	\$19,340	\$69,562
Total Cases 4721								
**See attached Indirect Cost breakdown for Civilian and Sworn employees								
<u>Please see attached FTE calculations.</u>								
Civilian 1647 hours								
Sworn 1618 hours								
The agency named above has made every effort not to include costs relating to the "Skelly Process".								
(05) Total () Subtotal ()				Page: ____ of ____		\$2,866,552	\$1,101,861	\$3,968,413

MANDATED COSTS
Peace Officers Procedural Bill of Rights
COMPONENT / ACTIVITY COST DETAIL

FORM
ICRP Summary

(01) Claimant: City of Los Angeles

(02) Fiscal year costs were incurred:

2005-2006

Indirect Cost Summary Sheet

- By Department -

Department	ICRP		Total Direct		Total Indirect Costs		
	Base	Percent	Salaries	Benefits	S&W	S&W&B	Total
Enter ICRP Rate in column F. Below each department "x" option rate is based on - "Salaries & Benefits" or "Salaries only"							
Salaries only							
Salaries & Benefits							
Police: Sworn	S&W	51.7%	\$4,617,920	\$1,774,667	\$2,386,080		
X							
Police Civilian	S&W	29.3%	\$367,482	\$141,517	\$107,819		
x							
							\$2,493,899
Check totals on claim summary page: Total Service & Supply Total Travel & Training Salaries 4,985,402 Benefits 1,916,184 <u>\$2,493,899</u> Claim total \$9,395,485							
			\$ 4,985,402	\$ 1,916,184	\$ 2,493,899		

ICRP attachment to RVC multi rate claim

City of Los Angeles
2005-2006
Salary & Wages Worksheet

Title	05-06 Avg Salary	26.1 pay periods	PHR - FTE 1618 sworn, 1647 civilian
Captain I	\$ 4,834	\$ 126,172	\$ 77.98
Captain II	\$ 5,448	\$ 142,190	\$ 87.88
Captain III	\$ 5,818	\$ 151,847	\$ 93.85
Clerk Typist	\$ 1,465	\$ 38,226	\$ 23.21
Detective I	\$ 3,436	\$ 89,675	\$ 55.42
Detective II	\$ 3,675	\$ 95,907	\$ 59.28
Detective III	\$ 4,047	\$ 105,633	\$ 65.29
Lieutenant I	\$ 4,298	\$ 112,169	\$ 69.33
Lieutenant II	\$ 4,555	\$ 118,898	\$ 73.48
Management Analyst II	\$ 2,710	\$ 70,736	\$ 42.95
Police Officer I	\$ 2,056	\$ 53,671	\$ 33.17
Police Officer II	\$ 2,832	\$ 73,925	\$ 45.69
Police Service Representative	\$ 1,707	\$ 44,554	\$ 27.05
Principal Clerk Police II	\$ 2,238	\$ 58,407	\$ 35.46
Senior Clerk Typist	\$ 1,813	\$ 47,319	\$ 28.73
Sergeant	\$ 3,680	\$ 96,049	\$ 59.36
Sergeant II	\$ 3,885	\$ 101,401	\$ 62.67

COST ALLOCATION PLAN 28*
INDIRECT OR ADMINISTRATIVE COST FACTORS – POLICE DEPARTMENT
Effective 7/1/2005 through 6/30/2006

(BASED ON 2005-2006 INDIRECT COST RATES- COST ALLOCATION PLAN (CAP) 28-APPROVED BY THE GOVERNMENT)

SWORN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Pension	15.73%
Flex Benefit Program	8.99
Employee Assistance	0.09
Medicare	1.13
Part Time/Seasonal/Temporary Pension.....	0.04
Unused Sick/Vacation Payout	1.23
Unemployment Claims	0.02
Workers' Compensation	8.25
Carry Forward, Positive	<u>2.95</u>
Total Fringe Benefits	38.43%
Department Administrative Rate	33.66%
General City Overhead	<u>18.01</u>
	51.67%
Total Sworn Overhead	90.10%

Department Field Support **28.44%**

Note: This indirect cost rate is added to the other rates, when the function or grant includes services provided by sworn employees assigned to the field, and is to be applied only to that portion of the function or grant. The rate represents five Department divisions that support field operations: Records and Identification, Scientific Investigation, Communications, Property and Jail.


CIVILIAN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Retirement	19.84%
Flex Benefit Program	9.38
Employee Assistance	0.03
Medicare	1.05
Union-Sponsored Benefits	0.24
Unused Sick/Vacation Payout	0.65
Unemployment Claims	0.05
Workers' Compensation	6.81
Carry Forward, Positive	<u>0.46</u>
Total Fringe Benefits	38.51%
Department Administrative Rate	17.48%
General City Overhead	<u>11.86</u>
	29.34%
Total Civilian Overhead	67.85%

NOTE: CAP rates are not applied to overtime charges. If extensive overtime is charged to a grant (more than 50% of straight-time charges), or for more information about applying CAP rates, call Fiscal Operations Division at (213) 485-3836.

*Cost Allocation Plan 28 is based on actual expenditures for FY 2003/04

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: October 11, 2006 **MEMORANDUM NO. 06-037**
TO: All City Office/Department Heads
FROM: Rushmore D. Cervantes, Chief Deputy Controller 
SUBJECT: 2005-06 INDIRECT COST RATES
COST ALLOCATION PLAN (CAP) 28

Attached are the approved Cost Allocation Plan (CAP) 28 indirect cost rates and instructions on their use. The only changes from the interim rates distributed on October 11, 2005, were Administration rates for the City Administrative Officer and Office of the Treasurer.

The rates were approved by the U.S. Department of Health and Human Services under contract with the City's cognizant federal agency, the U.S. Department of Housing and Urban Development. These rates must be used in all new applications, contracts, and billings for grant activities and to compute overhead amounts to be included with fees for special services during 2005-06.

Questions regarding the Cost Allocation Plan or indirect cost rates may be directed to the CAP staff, Lillian Sedlak at 978-7326, or Achilles Gonzales at 978-7327.

Attachments: A – Indirect Cost Rates
B – Instructions
C – Costs Included in Rate Calculations

COST ALLOCATION PLAN 28 (CAP 28) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2005-06. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
AGING:					
Balance of Department	34.22%	58.63%	na	*	25.76%
Title V	6.94%	2.40%	na	*	10.90%
ANIMAL SERVICES	43.39%	39.43%	58.84%	*	20.62%
BUILDING & SAFETY	32.78%	19.60%	22.79%	*	19.48%
CITY ADMINISTRATIVE OFFICER (OARS):					
CRA, Petroleum Admin., Proprietary, Capital Projects (Phy. Plant)	31.04%	45.24%	34.69%	*	19.83%
Disaster Grants Coordination	22.48%	267.83%	14.04%	*	19.83%
CITY ATTORNEY:					
Criminal	30.27%	12.94%	13.97%	*	24.76%
Direct Billed - User's Site (Proprietary Depts.)	26.59%	0.81%	8.38%	*	24.76%
Direct Billed - In City Space	29.46%	12.27%	14.71%	*	24.76%
CITY CLERK:					
Elections	108.79%	81.18%	56.94%	*	18.55%
Land Records	38.85%	28.98%	63.72%	*	6.26%
COMMISSION FOR CHILDREN, YOUTH AND THEIR FAMILIES	35.93%	121.62%	45.35%	*	24.58%
COMMISSION ON STATUS OF WOMEN	32.83%	107.11%	30.69%	*	29.51%
COMMUNITY DEVELOPMENT:					
Balance of Department	30.58%	18.08%	na	*	19.64%
As Needed Employees	5.78%	6.09%	na	*	n/a
CONTROLLER:					
Direct Billed (at User's site)	30.75%	4.88%	23.26%	*	22.30%
Direct Billed (in City space)	31.55%	86.84%	0.00%	*	22.30%
CULTURAL AFFAIRS	38.56%	54.13%	0.00%	*	18.11%
DEPARTMENT on DISABILITY	30.22%	79.10%	44.50%		19.72%
EL PUEBLO	23.38%	64.95%	44.44%	*	22.63%
EMERGENCY PREPAREDNESS DEPT					
Em. Prep. Policy & Public info.	31.58%	58.65%	74.47%		26.63
ENVIRONMENTAL AFFAIRS:					
Policy/Public Information	29.34%	15.11%	21.02%	*	24.19%

COST ALLOCATION PLAN 28 (CAP 28) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2005-06. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time or overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
FINANCE, OFFICE OF Revenue Collections	33.14%	87.31%	14.13%		21.20%
FIRE:					
Civilian	36.45%	15.74%	24.59%	*	27.85%
Sworn (Firefighters)	36.64%	19.50%	16.28% a.	*	26.40%
			12.61% b.		
			28.89% c.		
			Field Support Rate, Sworn only **		
GENERAL SERVICES:					
Materials Testing	30.82%	26.65%	7.77%	*	20.64%
Print Shop	37.96%	55.85%	7.82%	*	21.15%
HOUSING:					
Grant-Funded Housing	31.66%	3.60%	na	*	18.25%
Rent Control	31.64%	8.12%	na	*	18.25%
Internal Administration	30.38%	39.53%	na	*	18.25%
HUMAN RELATIONS COMMISSION	29.42%	45.13%	23.76%	*	16.76%
LIBRARY	39.47%	15.55%	20.01%	*	19.40%
LOS ANGELES CONVENTION CENTER	33.99%	32.28%	34.85%	*	22.79%
MAYOR:					
Executive/Policy	30.58%	80.44%	46.24%	*	20.70%
Grant Funded/Spec. Programs	32.97%	99.43%	46.59%	*	18.30%
Direct in City Space	25.97%	60.94%	65.86%	*	20.70%
NEIGHBORHOOD EMPOWERMENT	30.18%	30.80%	32.72%		13.24%
PERSONNEL:					
Custody Care (Jails)	33.36%	10.05%	8.60%	*	20.45%
Personnel Grant Funded/Spec. Programs	33.38%	46.26%	5.82%	*	20.45%
PLANNING	31.68%	28.80%	20.83%	*	18.39%
POLICE:					
Civilian	38.51%	11.86%	17.48%	*	24.86%
Sworn	38.43%	18.01%	33.66% a.	*	27.57%
			28.44% b.		
			62.10% c.		
			Field Support Rate, Sworn only **		

****NOTE:** For Fire and Police, the Field Support rate (line b.) captures overhead costs that are in addition to other Administrative and Support Costs. It has been added to the Department Administration rate on this schedule. Please use this combined rate (line c.) for sworn positions in field operations. For other, non-field sworn positions, do NOT use the Field Support rate; use only the regular Department Administration rate (line a.), together with the other (Fringe, Central Service and CTO) rates.

COST ALLOCATION PLAN 28 (CAP 28) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2005-06. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time or overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
PUBLIC WORKS, Board Office:					
Public Services	32.19%	34.44%	4.65%		20.60%
PW - Contract Administration:					
Construction Inspection	31.96%	11.64%	16.50%	62.49%	18.05%
PW - Engineering:					
Stormwater Facilities Engineering	29.70%	16.36%	13.47%	44.20%	19.60%
Wastewater Facilities Engineering	30.83%	15.43%	13.65%	48.78%	19.60%
Privately Financed & Assessment	28.97%	16.74%	13.41%	6.25%	19.60%
Street Improvements	19.07%	-0.65%	13.05%	44.09%	19.60%
Municipal Facilities	27.12%	1.38%	12.92%	31.72%	19.60%
General Mapping & Survey	31.66%	16.17%	13.85%	150.22%	19.60%
PW - Sanitation					
Solid Waste Program	39.55%	123.79%	7.30%	*	20.99%
Wastewater/Stormwater Division	31.89%	21.22%	5.38%	*	20.99%
PW - Street Lighting	34.13%	36.30%	27.71%	*	19.98%
PW - Street Services	39.72%	79.10%	19.71%	*	29.63%
Street Maint General				116.00%	31.64%
Street Use Inspection				42.65%	25.62%
Lot Cleaning				225.99%	31.14%
Street Tree Division				142.79%	30.36%
Street Maint Administration					29.54%
ST MNT Facilities Maintenance					28.55%
Street Maint Executive					30.20%
Resurf & Reconstr Div				97.93%	30.44%
Special Proj Constr Div				78.18%	29.40%
Street Improvement Div				45.20%	26.54%
RECREATION & PARKS	53.25%	32.90%	15.62%	*	20.95%
TRANSPORTATION	40.85%	26.38%	8.04%	*	23.04%
TREASURER					
Cash Management & Street Bonds	27.82%	206.44%	73.70%	*	19.15%
Zoo Department	44.57%	18.84%	31.13%	*	27.29%

These ten Division Overhead rates, calculated by St. Services, assume that Equipment is billed as a direct cost. When such is done, the Central Services rate will be reduced to exclude the directly billed equipment.

Notes:

* Division Overhead includes costs of division heads, section supervisors, clerical and other support staff within divisions or sections. These costs are not part of the Department Administration rate, but are legitimate costs which should be recovered if allowed by your grantor. If these costs are not charged directly to a grant, a Division Overhead indirect cost rate should be calculated. To maintain consistency and insure that Division Overhead costs do not overlap with Department Administration costs, please contact CAP staff for assistance in calculating these rates. Public Works Division Overhead rates are computed by Public Works staff and published herein as a courtesy.

Instructions for Using Indirect Cost Rates

Modifying the rates. Usually departments use the CAP rates as published; however, situations may arise necessitating revision of the rates. **Your Department's CAP rate should be modified if your Department directly charges to a grant or fee payer any of the indirect costs, or if the grantor or fee payer directly provides any of the services listed on Attachment C.** For example, if you purchase a computer and the total cost is paid directly by a fee payer or grantor, your CAP rate must be reduced to avoid double billing for the directly charged item(s). This means: if the entity you are billing provides office space, telephone service, computers, vehicles, or any other item listed on Attachment C, your rates must be adjusted to exclude those items.

An example of the necessity for rate modification is the Police Department's bill to the Airports Department. Airports provides space, utilities, telephones and equipment for Police Department staff at the Airport substation. To properly bill the Airports Department for law enforcement services at this site, the Police Department indirect cost rates are revised to exclude the building use, building lease, equipment use, and telephone line items.

Contact the CAP Office for adjusted rates if any cost listed in Attachment C is directly billed to grants or fees, or if any of the listed services are provided by your client.

Using the rates as published. The CAP indirect cost rates are computed based on "gross annual salaries" **excluding** overtime. (For rates applicable to overtime salaries, please contact the CAP office.) Compensated time off (CTO) is included in this gross salaries base. (See Attachment C paragraph 5 for a definition of CTO.) The CAP Fringe Benefits, Central Services, and Department Administration indirect cost rates, therefore, must be applied to salaries which include CTO and exclude overtime. Please refer to the example below, where:

Fringe Benefits Rate	=	28.10%	of Gross Salaries
Central Services Rate	=	39.77%	of Gross Salaries
Department Administration & Support Rate	=	18.87%	of Gross Salaries
Compensated Time Off Rate	=	16.26%	of Net Salaries

1. Assume Gross Salaries = \$ 1,000.00 *(Gross Salaries are salaries for straight time worked plus Compensated Time Off.)*

Given the above-listed indirect cost rates, and assuming your CTO costs are included in your salaries as billed, total indirect costs are calculated below:

a.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost
b.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost
c.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost
Sum of (a + b + c) =								\$ 867.40

2. Assume Net Salaries = \$ 860.14 *(Net Salaries are salaries for straight time worked, not including Compensated Time Off. Such net salaries would typically be accumulated through direct charges in a cost accounting system.)*

Convert net salaries to gross salaries by adding CTO % of Net:

- a. Net Salary times CTO %: \$ 860.14 x 16.26% = \$ 139.86 = CTO Amount
 b. Net Salary plus CTO amt: \$ 860.14 + \$ 139.86 = \$ 1,000.00 = Gross Salaries

c.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost
d.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost
e.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost
Sum of (a + b + c) =								\$ 867.40

REMINDER: CTO rates are to be used only when paid time off such as sick and vacation time are not directly charged to a special service or grant project. Please see Attachment C, paragraph 5 for further information.

COST ALLOCATION PLAN 28 INDIRECT COSTS INCLUDED IN RATE CALCULATIONS**1. Fringe Benefits Rate includes the department's share of the Citywide costs of:**

Retirement (Civilians)	Employee Assistance	Union Sponsored Benefits
Pensions (Fire/Police Sworn)	Ordinance Life Insurance	Unused Sick/Vacation Payout
FLEX Benefit Program	Medicare	Unemployment Insurance
- Health Insurance	Social Security	Workers' Compensation
- Dental Insurance	Part Time/Seasonal/Temporary	Hiring Hall Fringe
- Basic Life Insurance	(PST) 457 Retirement Plan	

2. Central Services Rate includes the department's share of the Citywide costs of:

Building Leases [GSD & Spec. Funds]	Equipment Use Allowance (Equipment costing \$5,000 & above)	General City Purposes [League Dues and audits]
Building Depreciation	Equipment Exp. Under \$5,000 (Equipment Costing under \$5,000)	Liability Claims
Computer Assets Depreciation (items costing \$5,000 & above)	Gas (Natural Gas Utility) [GSD]	Petroleum Products [GSD]
Communications Lease (Telephone bill)	Insurance on bond-financed assets	Vehicle Depreciation
		Water & Electricity
		Emergency Operations Organization
City Administrative Officer (CAO, formerly OARS)	COUNCIL & CLA	MAYOR
Budget		Department Liaison & Grants Citywide Coordinator
Employee Relations & Living Wage	EMPLOYEE RELATIONS BOARD	
Gen. Support (Finance, Systems, Productivity & Risk Management)		PERSONNEL
Dept Liaison/ Mgt. Analysis	ENVIRONMENTAL AFFAIRS	Workers' Compensation & Safety
Municipal Facilities Projects	Environmental Coordination	Personnel Balance of Dept.
CITY ATTORNEY	EMERGENCY PREPAREDNESS	PUBLIC WORKS
Civil Liability	Emergency Preparedness Coordination	Board Office
Employee Relations		Contract Admin:
Municipal Counsel / Legis. Svcs.		Office of Contract Compliance
Land Use	FINANCE	Engineering: General Engineering
Police Division	Citywide Collections	
CITY CLERK	GENERAL SERVICES	TREASURER
Council and Public Services	Building Services	Custody & Disbursement & Debt Administration
Records Management	Construction Division	
	Fleet Services	PENSIONS: OVERHEADS ALLOCATED
	Assets Management (Leasing & Real Estate)	TO PENSIONS. (Other Pension costs included in Fringe Benefits)
CITY ETHICS COMMISSION	Mail & Messenger	
	Parking Services	
CONTROLLER	Supply Services	CERS: OVERHEADS ALLOCATED
Accounts Payable		TO CERS. (Other CERS costs included in Fringe Benefits)
Budget & General Acctg.		
CAP	INFORMATION TECHNOLOGY	
FMIS	AGENCY (ITA)	
Internal Audit	IT Services	
Payroll (incl. Fiscal Systems)	Communications Division	
Single Audit	Telecommunications (PPEB)	
Workers' Compensation		

INDIRECT COSTS INCLUDED IN CAP 28 RATE CALCULATIONS (continued)

3. Department Administration and Support Rate includes costs of support functions within a department:

The rate includes expenditures which: — *benefit the department as a whole*
 — *are NOT directly charged to a grant or fee program*
 — *are NOT line operations.*

Expenditures include those of:

Accounting staff	Department Management (Gen. Mgr. & Asst. Gen. Mgrs)
Budget staff	Clerical Staff/word processing staff serving the entire department.
Payroll staff	Systems Staff (if serving the whole department, not a special project)
Personnel & training staff	Warehouse/inventory/stores staff
Inventory staff	Vehicle maintenance staff (Police & Fire only)

NOTE: The support costs discussed here must conform to Federal definitions of allowable overhead costs and are not necessarily the same as the City's General Administration and Support Program (GASP) in a departmental budget.

4. Division Overhead Rates include the costs of support functions within divisions:

The rate includes the salary and expenses of division heads, section supervisors, and other support within divisions which are not included in the Department Administration costs discussed above. For example, within the Bureau of Engineering, the City Engineer, Deputies, their secretaries and the Administration Division are included in the Department Administration indirect cost rate. Within operating divisions, division heads, assistant division heads, and their secretaries and division support staff are NOT included in the Department Administration rate.

To recover the overhead costs within a division, a department or bureau should directly charge the time of the division head, secretary, assistant division head, and other division support services to a project, or calculate an indirect cost rate to recover their costs. Please work with the CAP office when calculating such rates, to insure that Division Overhead costs do not overlap Department Administration costs.

5. Compensated Time Off Rate includes the salary paid to employees who are on paid leave such as:

Sick Leave	Jury Duty	Floating Holiday
Vacation	Bereavement leave	Injury on Duty
Holiday	Preventive Medicine	
Military Leave	Workers' Compensation (salary continuance	
Family Illness	paid by the employing department.)	

Special Note regarding CTO:

CTO rates are to be used only when sick, vacation, and other CTO hours are not directly charged to a fee or grant project. For employees who charge only part of their hours worked to a grant, their time off is usually not being charged to the project, so the cost of that time off must be recovered using the CTO Rate. For employees whose entire annual salary is charged to a fee or grant, CTO is recovered as they take their time off, and the CTO Rate is not to be used. When the CTO Rate is applied to net salaries, the amount derived is added to net salaries to create gross salaries. The derived gross salaries becomes the base against which the fringe benefit rate and other indirect cost rates described above are applied.

6. OTHER DEFINITIONS

- a. Gross Salaries - Total annual salaries, which include pay for time worked AND compensated time off.
- b. Net Salaries - Pay for time worked only, not including compensated time off.

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2005-2006 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	04-05 AVG. SALARY	AVG BI-WKLY SALARY 05/06 w/ 4% INCREASE	HOURLY RATE	IND. FIELD @133.29% (CAP 27)	IND. ADMIN @ 101.36% (CAP 27)	6-MONTH SALARY	ANNUAL SALARY
2214	POLICE OFFICER I		\$1,978.68	2,057.83	25.72	34.29	26.07	26,855	53,709
2214	POLICE OFFICER II		\$2,684.54	2,791.92	34.90	46.52	35.37	36,435	72,869
2214	POLICE OFFICER II	G	\$3,001.12	3,121.16	39.01	52.00	39.55	40,731	81,462
2214	POLICE OFFICER II	H	\$4,085.18	4,248.59	53.11	70.79	53.83	55,444	110,888
2214	POLICE OFFICER II	L	\$3,226.22	3,355.27	41.94	55.90	42.51	43,786	87,573
2214	POLICE OFFICER II	M	\$3,265.44	3,396.06	42.45	56.58	43.03	44,319	88,637
2214	POLICE OFFICER III		\$3,062.58	3,185.08	39.81	53.07	40.36	41,565	83,131
2214	POLICE OFFICER III	A	\$3,359.73	3,494.12	43.68	58.22	44.27	45,598	91,197
2214	POLICE OFFICER III	B	\$3,194.76	3,322.55	41.53	55.36	42.10	43,359	86,719
2214	POLICE OFFICER III	C	\$3,240.22	3,369.83	42.12	56.15	42.70	43,976	87,953
2214	POLICE OFFICER III	D	\$3,238.78	3,368.33	42.10	56.12	42.68	43,957	87,913
2214	POLICE OFFICER III	E	\$3,295.71	3,427.54	42.84	57.11	43.43	44,729	89,459
2214	POLICE OFFICER III	F	\$3,251.60	3,381.66	42.27	56.34	42.85	44,131	88,261
2214	POLICE OFFICER III	G	\$3,223.39	3,352.33	41.90	55.85	42.47	43,748	87,496
2214	POLICE OFFICER III	J	\$4,355.20	4,529.41	56.62	75.47	57.39	59,109	118,218
2214	POLICE OFFICER III	K	\$3,664.62	3,811.20	47.64	63.50	48.29	49,736	99,472
2214	POLICE OFFICER III	O	\$3,267.73	3,398.44	42.48	56.62	43.06	44,350	88,699
2214	POLICE OFFICER III	P	\$3,306.19	3,438.44	42.98	57.29	43.57	44,872	89,743
2214	POLICE OFFICER III	R	\$3,366.02	3,500.66	43.76	58.33	44.35	45,684	91,367
2214	POLICE OFFICER III	S	\$3,592.56	3,736.26	46.70	62.25	47.34	48,758	97,516
2214	POLICE OFFICER III	T	\$3,302.91	3,435.03	42.94	57.23	43.52	44,827	89,654
2214	POLICE OFFICER III	V	\$3,275.20	3,406.21	42.58	56.75	43.16	44,451	88,902
2214	POLICE OFFICER III	W	\$3,316.80	3,449.47	43.12	57.47	43.70	45,016	90,031
2214	POLICE OFFICER III	Y	\$3,329.60	3,462.78	43.28	57.69	43.87	45,189	90,379
2217	POLICE SPECIALIST		\$2,248.33	2,338.26	29.23	38.96	29.63	30,514	61,029
2223	POLICE DETECTIVE I		\$3,293.54	3,425.28	42.82	57.07	43.40	44,700	89,400
2223	POLICE DETECTIVE I	K	\$3,944.53	4,102.31	51.28	68.35	51.98	53,535	107,070
2223	POLICE DETECTIVE I	L	\$3,435.84	3,573.27	44.67	59.54	45.27	46,631	93,262
2223	POLICE DETECTIVE II		\$3,505.69	3,645.92	45.57	60.75	46.19	47,579	95,158
2223	POLICE DETECTIVE II	K	\$4,135.20	4,300.61	53.76	71.65	54.49	56,123	112,246
2223	POLICE DETECTIVE II	L	\$3,759.00	3,909.36	48.87	65.13	49.53	51,017	102,034
2223	POLICE DETECTIVE II	Y	\$3,807.20	3,959.49	49.49	65.97	50.17	51,671	103,343

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2005-2006 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	04-05 AVG. SALARY	AVG BI-WKLY SALARY 05/06 w/ 4% INCREASE	HOURLY RATE	IND. FIELD @133.29% (CAP 27)	IND. ADMIN @ 101.36%(CAP 27)	6-MONTH SALARY	ANNUAL SALARY
2223	POLICE DETECTIVE III		\$3,833.89	3,987.25	49.84	66.43	50.52	52,034	104,067
2223	POLICE DETECTIVE III	K	\$4,471.20	4,650.05	58.13	77.48	58.92	60,683	121,366
2223	POLICE DETECTIVE III	L	\$4,135.20	4,300.61	53.76	71.65	54.49	56,123	112,246
2227	POLICE SERGEANT I		\$3,518.90	3,659.66	45.75	60.97	46.37	47,759	95,517
2227	POLICE SERGEANT I	M	\$3,911.51	4,067.97	50.85	67.78	51.54	53,087	106,174
2227	POLICE SERGEANT I	T	\$4,101.60	4,265.66	53.32	71.07	54.05	55,667	111,334
2227	POLICE SERGEANT II		\$3,704.22	3,852.39	48.15	64.19	48.81	50,274	100,547
2227	POLICE SERGEANT II	G	\$3,917.60	4,074.30	50.93	67.88	51.62	53,170	106,339
2227	POLICE SERGEANT II	S	\$4,205.60	4,373.82	54.67	72.87	55.42	57,078	114,157
2227	POLICE SERGEANT II	T	\$3,962.84	4,121.35	51.52	68.67	52.22	53,784	107,567
2227	POLICE SERGEANT II	X	\$4,183.61	4,350.95	54.39	72.49	55.13	56,780	113,560
2232	POLICE LIEUTENANT I		\$4,144.13	4,309.90	53.87	71.81	54.61	56,244	112,488
2232	POLICE LIEUTENANT I	Q	\$4,605.60	4,789.82	59.87	79.80	60.69	62,507	125,014
2232	POLICE LIEUTENANT I	Y	\$4,862.40	5,056.90	63.21	84.25	64.07	65,992	131,985
2232	POLICE LIEUTENANT II		\$4,337.76	4,511.27	56.39	75.16	57.16	58,872	117,744
2232	POLICE LIEUTENANT II	Y	\$4,862.40	5,056.90	63.21	84.25	64.07	65,992	131,985
2244	POLICE CAPTAIN I		\$4,773.69	4,964.64	62.06	82.72	62.90	64,789	129,577
2244	POLICE CAPTAIN II		\$5,122.86	5,327.77	66.60	88.77	67.50	69,527	139,055
2244	POLICE CAPTAIN III		\$5,493.35	5,713.08	71.41	95.19	72.38	74,556	149,111
2251	POLICE COMMANDER		\$6,033.09	6,274.41	78.43	104.54	79.50	81,881	163,762
2251	POLICE COMMANDER	Y	\$6,914.40	7,190.98	89.89	119.81	91.11	93,842	187,684
2262	POLICE DEPUTY CHIEF I		\$6,300.07	6,552.07	81.90	109.17	83.01	85,505	171,009
2262	POLICE DEPUTY CHIEF II		\$7,084.32	7,367.69	92.10	122.75	93.35	96,148	192,297
9359	CHIEF OF POLICE		\$9,317.20	9,689.89	121.12	161.45	122.77	126,453	252,906

**WAGES AND COUNT
CIVILIAN 2005-2006**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	INDIRECT ADMIN @ 69.54% (CAP 27)	6 MONTH SALARY	ANNUAL SALARY
1513-1	ACCOUNTANT I	\$	-	\$	\$	\$
1513-2	ACCOUNTANT II	\$ 2,051.20	\$ 25.64	\$ 17.83	\$ 26,768	\$ 53,536
1223-1	ACCOUNTING CLERK I	\$ 1,697.51	\$ 21.22	\$ 14.76	\$ 22,153	\$ 44,305
1223-2	ACCOUNTING CLERK II	\$ 1,914.09	\$ 23.93	\$ 16.64	\$ 24,979	\$ 49,958
4310	ANIMAL CARE TECHNICIAN	\$ 1,296.00	\$ 16.20	\$ 11.27	\$ 16,913	\$ 33,826
7922	ARCHITECT DRAFTING TECH	\$ 2,154.40	\$ 26.93	\$ 18.73	\$ 28,115	\$ 56,230
0603	ASSISTANT INSPECTOR GENERAL	\$ 4,708.53	\$ 58.86	\$ 40.93	\$ 61,446	\$ 122,893
6147	AUDIO VISUAL TECHNICIAN	\$ 2,096.00	\$ 26.20	\$ 18.22	\$ 27,353	\$ 54,706
6147	AUDIO VISUAL TECHNICIAN (BONUS B)	\$ 2,205.60	\$ 27.57	\$ 19.17	\$ 28,783	\$ 57,566
1517	AUDITOR	\$ 2,085.60	\$ 26.07	\$ 18.13	\$ 27,217	\$ 54,434
3704-5	AUTO BODY BUILDER/REPAIRER	\$ 2,184.80	\$ 27.31	\$ 18.99	\$ 28,512	\$ 57,023
3706-F	AUTO BODY REPAIR SUPERVISOR	\$ 2,168.80	\$ 27.11	\$ 18.85	\$ 28,303	\$ 56,606
3706-2	AUTO BODY REPAIR SUPERVISOR II	\$ 1,580.80	\$ 19.76	\$ 13.74	\$ 20,629	\$ 41,259
3707-5	AUTO ELECTRICIAN	\$ 1,947.20	\$ 24.34	\$ 16.93	\$ 25,411	\$ 50,822
3721-5	AUTO PAINTER	\$ 2,517.90	\$ 31.47	\$ 21.89	\$ 32,859	\$ 65,717
3595-1	AUTOMOTIVE DISP I	\$ 1,936.80	\$ 24.21	\$ 16.84	\$ 25,275	\$ 50,550
3595-2	AUTOMOTIVE DISP II	\$ 2,462.40	\$ 30.78	\$ 21.40	\$ 32,134	\$ 64,269
1764-1	BACKGROUND INVESTIGATOR	\$ 2,888.00	\$ 36.10	\$ 25.10	\$ 37,688	\$ 75,377
1764-2	BACKGROUND INVESTIGATOR	\$ 1,702.80	\$ 21.29	\$ 14.80	\$ 22,222	\$ 44,443
3338	BUILDING REPAIR SUPERVISOR	\$ 2,328.80	\$ 29.11	\$ 20.24	\$ 30,391	\$ 60,782
3333-1	BUILDING REPAIRER	\$ 2,328.80	\$ 29.11	\$ 20.24	\$ 30,391	\$ 60,782
3343	CABINET MAKER	\$ 2,040.80	\$ 25.51	\$ 17.74	\$ 26,632	\$ 53,265
3344	CARPENTER	\$ 2,670.40	\$ 33.38	\$ 23.21	\$ 34,849	\$ 69,697
7204	CARTOGRAPHER	\$ 2,856.60	\$ 35.71	\$ 24.83	\$ 37,279	\$ 74,557
7833-2	CHEMIST II	\$ 4,289.60	\$ 53.62	\$ 37.29	\$ 55,979	\$ 111,959
1249-2	CHIEF CLERK POLICE II	\$ 4,852.80	\$ 60.66	\$ 42.18	\$ 63,329	\$ 126,658
2237-1	CHIEF FORENSIC CHEMIST I	\$ 6,218.67	\$ 77.73	\$ 54.06	\$ 81,154	\$ 162,307
2237-2	CHIEF FORENSIC CHEMIST II	\$ 9,578.00	\$ 119.73	\$ 83.26	\$ 124,993	\$ 249,986
9374	CHIEF INFORMATION OFFICER	\$ 4,852.80	\$ 60.66	\$ 42.18	\$ 63,329	\$ 126,658
9359	CHIEF OF POLICE	\$ 1,424.00	\$ 17.80	\$ 12.38	\$ 18,583	\$ 37,166
2384	CHIEF POLICE PSYCHOLOGIST	\$ 1,535.68	\$ 19.20	\$ 13.35	\$ 20,041	\$ 40,081
1141	CLERK	\$ 1,464.58	\$ 18.31	\$ 12.73	\$ 19,113	\$ 38,226
1321	CLERK STENOGRAPHER	\$ 2,176.80	\$ 27.21	\$ 18.92	\$ 28,407	\$ 56,814
1358	CLERK TYPIST	\$ 2,559.20	\$ 31.99	\$ 22.25	\$ 33,398	\$ 66,795
9734-1	COMMISSION EXECUTIVE ASSIST I	\$ 2,613.60	\$ 32.67	\$ 22.72	\$ 34,107	\$ 68,215
9734-2	COMMISSION EXECUTIVE ASSIST II	\$ 2,416.20	\$ 30.20	\$ 21.00	\$ 31,531	\$ 63,063
9734-2	COMMISSION EXECUTIVE ASSIST II (BONUS R)	\$	\$	\$	\$	\$
3686	COMMUNICATIONS ELECTRICIAN	\$ 3,509.60	\$ 43.87	\$ 30.51	\$ 45,800	\$ 91,601
7610	COMMUNICATIONS ENGINEER	\$	\$	\$	\$	\$

**WAGES AND COUNT
CIVILIAN 2005-2006**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	INDIRECT ADMIN @ 69.54% (CAP 27)	6 MONTH SALARY	ANNUAL SALARY
7610	COMMUNICATIONS ENGINEER (BONUS Y)	\$ 3,934.40	\$ 49.18	\$ 34.20	\$ 51,344	\$ 102,688
7607-1	COMMUNICATIONS ENGINEERING ASSOC. I	\$ 2,456.00	\$ 30.70	\$ 21.35	\$ 32,051	\$ 64,102
7607-2	COMMUNICATIONS ENGINEERING ASSOC. II	\$ 2,829.60	\$ 35.37	\$ 24.60	\$ 36,926	\$ 73,853
2234-1	CRIMINALIST I	\$ 2,261.10	\$ 28.26	\$ 19.65	\$ 29,507	\$ 59,015
2234-2	CRIMINALIST II	\$ 3,282.37	\$ 41.03	\$ 28.53	\$ 42,835	\$ 85,670
2234-2	CRIMINALIST II (BONUS W)	\$ 3,474.40	\$ 43.43	\$ 30.20	\$ 45,341	\$ 90,682
2234-3	CRIMINALIST III	\$ 3,614.47	\$ 45.18	\$ 31.42	\$ 47,169	\$ 94,338
3156	CUSTODIAL SERVICES ATTENDANT	\$ 1,227.20	\$ 15.34	\$ 10.67	\$ 16,015	\$ 32,030
1433-2	DATA ENTRY OPERATOR II	\$ 1,683.20	\$ 21.04	\$ 14.63	\$ 21,966	\$ 43,932
1121-1	DELIVERY DRIVER I	\$ 1,439.20	\$ 17.99	\$ 12.51	\$ 18,782	\$ 37,563
1593-2	DEPT CHIEF ACCOUNTANT II	\$ 3,821.60	\$ 47.77	\$ 33.22	\$ 49,872	\$ 99,744
2262-A	DEPUTY CHIEF (BONUS Y)	\$ 6,751.20	\$ 84.39	\$ 58.68	\$ 88,103	\$ 176,206
3211	DETENTION OFFICER	\$ 1,862.74	\$ 23.28	\$ 16.19	\$ 24,309	\$ 48,618
3722-1	DIRECTOR OF POLICE TRANSP I	\$ 3,710.40	\$ 46.38	\$ 32.25	\$ 48,421	\$ 96,841
3722-2	DIRECTOR OF POLICE TRANSP II	\$ 4,488.80	\$ 56.11	\$ 39.02	\$ 58,579	\$ 117,158
9375	DIRECTOR OF SYSTEMS	\$ 4,852.80	\$ 60.66	\$ 42.18	\$ 63,329	\$ 126,658
3863	ELECTRICAL CRAFT HELPER	\$ 1,714.40	\$ 21.43	\$ 14.90	\$ 22,373	\$ 44,746
3863	ELECTRICIAN	\$ 2,445.60	\$ 30.57	\$ 21.26	\$ 31,915	\$ 63,830
2352	EQUESTRIAN FACILITY SUPERVISOR	\$ 2,154.40	\$ 26.93	\$ 18.73	\$ 28,115	\$ 56,230
4322	EQUINE KEEPER	\$ 1,594.20	\$ 19.93	\$ 13.86	\$ 20,804	\$ 41,609
3711-5	EQUIPMENT MECHANIC	\$ 2,196.34	\$ 27.45	\$ 19.09	\$ 28,662	\$ 57,324
3229-1	EXAM QUESTIONED DOCUMENTS I	\$ 1,960.00	\$ 24.50	\$ 17.04	\$ 25,578	\$ 51,156
3229-2	EXAM QUESTIONED DOCUMENTS II	\$ 3,243.40	\$ 40.54	\$ 28.19	\$ 42,326	\$ 84,653
0600	EXECUTIVE DIRECTOR POLICE COMMISSION	\$ 5,502.93	\$ 68.79	\$ 47.83	\$ 71,813	\$ 143,626
1117-2	EXECUTIVE SECRETARY II	\$ 2,338.86	\$ 29.24	\$ 20.33	\$ 30,522	\$ 61,044
1117-3	EXECUTIVE SECRETARY III	\$ 2,565.60	\$ 32.07	\$ 22.30	\$ 33,481	\$ 66,962
1157-1	FINGERPRINT IDEN. EXPERT I	\$ 1,954.57	\$ 24.43	\$ 16.99	\$ 25,507	\$ 51,014
1157-2	FINGERPRINT IDEN. EXPERT II	\$ 2,064.32	\$ 25.80	\$ 17.94	\$ 26,939	\$ 53,879
1157-3	FINGERPRINT IDEN. EXPERT III	\$ 2,052.27	\$ 25.65	\$ 17.84	\$ 26,782	\$ 53,564
2233	FIREARMS EXAMINER	\$ 3,333.87	\$ 41.67	\$ 28.98	\$ 43,507	\$ 87,014
2233-1	FIREARMS EXAMINER	\$ 2,449.60	\$ 30.62	\$ 21.29	\$ 31,967	\$ 63,935
1555-1	FISCAL SYSTEMS SPEC I	\$ 3,459.20	\$ 43.24	\$ 30.07	\$ 45,143	\$ 90,285
1555-2	FISCAL SYSTEMS SPEC II	\$ 4,039.20	\$ 50.49	\$ 35.11	\$ 52,712	\$ 105,423
2200-1	FORENSIC PRINT SPECIALIST I	\$ 2,075.68	\$ 25.95	\$ 18.04	\$ 27,088	\$ 54,175
2200-2	FORENSIC PRINT SPECIALIST II	\$ 2,609.88	\$ 32.62	\$ 22.69	\$ 34,059	\$ 68,118
2200-3	FORENSIC PRINT SPECIALIST III	\$ 3,083.84	\$ 38.55	\$ 26.81	\$ 40,244	\$ 80,488
2200-4	FORENSIC PRINT SPECIALIST IV	\$ 3,256.64	\$ 40.71	\$ 28.31	\$ 42,499	\$ 84,998
3531	GARAGE ATTENDANT	\$ 1,502.28	\$ 18.78	\$ 13.06	\$ 19,605	\$ 39,210
3141	GARDENER CARETAKER	\$ 1,558.40	\$ 19.48	\$ 13.55	\$ 20,337	\$ 40,674
3718	GENERAL AUTOMOTIVE SUPERVISOR	\$ 3,353.60	\$ 41.92	\$ 29.15	\$ 43,764	\$ 87,529

**WAGES AND COUNT
CIVILIAN 2005-2006**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	INDIRECT ADMIN @ 69.54% (CAP 27)	6 MONTH SALARY	ANNUAL SALARY
7214-1	GEOGRAPHIC INFO SYSTEMS SUPERVISOR I	\$ 2,613.60	\$ 32.67	\$ 22.72	\$ 34,107	\$ 68,215
7213	GEOGRAPHIC INFORMATION SPECIALIST	\$ 2,329.60	\$ 29.12	\$ 20.25	\$ 30,401	\$ 60,803
1670-1	GRAPHICS DESIGNER I	\$ 1,683.20	\$ 21.04	\$ 14.63	\$ 21,966	\$ 43,932
1670-2	GRAPHICS DESIGNER II	\$ 2,137.20	\$ 26.72	\$ 18.58	\$ 27,890	\$ 55,781
1326	HEARING REPORTER	\$ 2,392.27	\$ 29.90	\$ 20.79	\$ 31,219	\$ 62,438
0601	INSPECTOR GENERAL	\$ 5,422.80	\$ 67.79	\$ 47.14	\$ 70,768	\$ 141,535
7854-1	LABORATORY TECHNICIAN I	\$ 1,631.36	\$ 20.39	\$ 14.18	\$ 21,289	\$ 42,578
7854-2	LABORATORY TECHNICIAN II	\$ 1,886.40	\$ 23.58	\$ 16.40	\$ 24,618	\$ 49,235
3112	MAINTENANCE LABORER	\$ 1,477.69	\$ 18.47	\$ 12.84	\$ 19,284	\$ 38,568
1508	MANAGEMENT AIDE	\$ 1,971.82	\$ 24.65	\$ 17.14	\$ 25,732	\$ 51,465
1508	MANAGEMENT AIDE (BONUS Y)	\$ 2,204.51	\$ 27.56	\$ 19.16	\$ 28,769	\$ 57,538
9184-1	MANAGEMENT ANALYST I	\$ 2,334.64	\$ 29.18	\$ 20.29	\$ 30,467	\$ 60,934
9184-2	MANAGEMENT ANALYST II	\$ 2,710.20	\$ 33.88	\$ 23.56	\$ 35,368	\$ 70,736
1539	MANAGEMENT ASSISTANT	\$ 1,888.02	\$ 23.60	\$ 16.41	\$ 24,639	\$ 49,277
3771	MECHANICAL HELPER	\$ 1,644.80	\$ 20.56	\$ 14.30	\$ 21,465	\$ 42,929
3773-1	MECHANICAL REPAIRER I	\$ 2,094.40	\$ 26.18	\$ 18.21	\$ 27,332	\$ 54,664
1360	OFFICE SERVICES ASSISTANT	\$ 1,203.40	\$ 15.04	\$ 10.46	\$ 15,704	\$ 31,409
1101	OFFICE TRAINEE	\$ 879.40	\$ 10.99	\$ 7.64	\$ 11,476	\$ 22,952
1779-2	OPER & STATS RES ANAL II	\$ 3,432.80	\$ 42.91	\$ 29.84	\$ 44,798	\$ 89,596
3423	PAINTER	\$ 2,232.00	\$ 27.90	\$ 19.40	\$ 29,128	\$ 58,255
3145	PARK MAINTENANCE SUPERVISOR	\$ 2,020.00	\$ 25.25	\$ 17.56	\$ 26,361	\$ 52,722
1170-1	PAYROLL SUPERVISOR I	\$ 2,500.80	\$ 31.26	\$ 21.74	\$ 32,635	\$ 65,271
1170-2	PAYROLL SUPERVISOR II	\$ 2,668.00	\$ 33.35	\$ 23.19	\$ 34,817	\$ 69,635
1129	PERSONNEL RECORDS SUPERVISOR	\$ 2,258.00	\$ 28.23	\$ 19.63	\$ 29,467	\$ 58,934
1793-1	PHOTOGRAPHER I	\$ 2,064.80	\$ 25.81	\$ 17.95	\$ 26,946	\$ 53,891
1793-2	PHOTOGRAPHER II	\$ 2,138.13	\$ 26.73	\$ 18.59	\$ 27,903	\$ 55,805
1793-3	PHOTOGRAPHER III	\$ 2,505.11	\$ 31.31	\$ 21.78	\$ 32,692	\$ 65,383
1793-3	PHOTOGRAPHER III (BONUS Y)	\$ 2,542.80	\$ 31.79	\$ 22.10	\$ 33,184	\$ 66,367
3443	PLUMBER	\$ 2,548.80	\$ 31.86	\$ 22.16	\$ 33,262	\$ 66,524
9196-1	POLICE ADMINISTRATOR I	\$ 4,654.86	\$ 58.19	\$ 40.46	\$ 60,746	\$ 121,492
9196-2	POLICE ADMINISTRATOR II	\$ 5,312.53	\$ 66.41	\$ 46.18	\$ 69,329	\$ 138,657
9196-3	POLICE ADMINISTRATOR III	\$ 6,332.00	\$ 79.15	\$ 55.04	\$ 82,633	\$ 165,265
0101	POLICE COMMISSIONER	\$ -	\$ -	\$ -	\$ -	\$ -
3710-1	POLICE FLEET SERVICE SUPV I	\$ 2,260.00	\$ 28.25	\$ 19.65	\$ 29,493	\$ 58,986
1627-1	POLICE PERFORMANCE AUDITOR I	\$ 2,099.20	\$ 26.24	\$ 18.25	\$ 27,395	\$ 54,789
1627-2	POLICE PERFORMANCE AUDITOR II	\$ 2,475.20	\$ 30.94	\$ 21.52	\$ 32,301	\$ 64,603
1627-3	POLICE PERFORMANCE AUDITOR III	\$ 3,242.52	\$ 40.53	\$ 28.19	\$ 42,315	\$ 84,630
1627-3	POLICE PERFORMANCE AUDITOR III (BONUS Y)	\$ 3,559.20	\$ 44.49	\$ 30.94	\$ 46,448	\$ 92,895
1627-4	POLICE PERFORMANCE AUDITOR IV	\$ 3,620.80	\$ 45.26	\$ 31.47	\$ 47,251	\$ 94,503
0020	POLICE PERMIT REVIEW PANEL	\$ -	\$ -	\$ -	\$ -	\$ -

**WAGES AND COUNT
CIVILIAN 2005-2006**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	INDIRECT ADMIN @ 69.54% (CAP 27)	6 MONTH SALARY	ANNUAL SALARY
2382-1	POLICE PSYCHOLOGIST I	\$ 3,711.55	\$ 46.39	\$ 32.26	\$ 48,436	\$ 96,871
2382-2	POLICE PSYCHOLOGIST II	\$ 4,440.80	\$ 55.51	\$ 38.60	\$ 57,952	\$ 115,905
2202	POLICE SERVICE ASSISTANT	\$ 1,526.40	\$ 19.08	\$ 13.27	\$ 19,920	\$ 39,839
2207	POLICE SERVICE REPRESENTATIVE	\$ 1,707.04	\$ 21.34	\$ 14.84	\$ 22,277	\$ 44,554
2207-1	POLICE SERVICE REPRESENTATIVE (BONUS W)	\$ 2,160.00	\$ 27.00	\$ 18.78	\$ 28,188	\$ 56,376
2207-2	POLICE SERVICE REPRESENTATIVE	\$ 1,783.31	\$ 22.29	\$ 15.50	\$ 23,272	\$ 46,544
2207-2	POLICE SERVICE REPRESENTATIVE	\$ 2,164.46	\$ 27.06	\$ 18.81	\$ 28,246	\$ 56,492
2207-2	POLICE SERVICE REPRESENTATIVE (BONUS B)	\$ 2,526.40	\$ 31.58	\$ 21.96	\$ 32,970	\$ 65,939
2207-2	POLICE SERVICE REPRESENTATIVE (BONUS N)	\$ 2,354.67	\$ 29.43	\$ 20.47	\$ 30,728	\$ 61,457
2207-2	POLICE SERVICE REPRESENTATIVE (BONUS R)	\$ 2,642.83	\$ 33.04	\$ 22.97	\$ 34,489	\$ 68,978
2207-3	POLICE SERVICE REPRESENTATIVE	\$ 2,737.41	\$ 34.22	\$ 23.79	\$ 35,723	\$ 71,446
2207-3	POLICE SERVICE REPRESENTATIVE (BONUS N)	\$ 2,871.71	\$ 35.90	\$ 24.96	\$ 37,476	\$ 74,952
2207-3	POLICE SERVICE REPRESENTATIVE (BONUS R)	\$ 2,943.67	\$ 36.80	\$ 25.59	\$ 38,415	\$ 76,830
1503	POLICE STUDENT WORKER	\$ 910.40	\$ 11.38	\$ 7.91	\$ 11,881	\$ 23,761
3687	POLICE SURVEILLANCE SPECIALIST	\$ 2,300.80	\$ 28.76	\$ 20.00	\$ 30,025	\$ 60,051
3687-1	POLICE SURVEILLANCE SPECIALIST I	\$ 2,604.97	\$ 32.56	\$ 22.64	\$ 33,995	\$ 67,990
3687-2	POLICE SURVEILLANCE SPECIALIST II	\$ 3,005.60	\$ 37.57	\$ 26.13	\$ 39,223	\$ 78,446
2383	POLICE TRAINING ADMINISTRATOR	\$ 4,399.20	\$ 54.99	\$ 38.24	\$ 57,410	\$ 114,819
2240-1	POLYGRAPH EXAMINER I	\$ 2,149.60	\$ 26.87	\$ 18.69	\$ 28,052	\$ 56,105
2240-2	POLYGRAPH EXAMINER II	\$ 2,832.69	\$ 35.41	\$ 24.62	\$ 36,967	\$ 73,933
2240-3	POLYGRAPH EXAMINER III	\$ 3,514.00	\$ 43.93	\$ 30.55	\$ 45,858	\$ 91,715
2240-4	POLYGRAPH EXAMINER IV	\$ 4,093.60	\$ 51.17	\$ 35.58	\$ 53,421	\$ 106,843
3215	PR DETENTION OFFICER	\$ 2,467.75	\$ 30.85	\$ 21.45	\$ 32,204	\$ 64,408
3215	PR DETENTION OFFICER (BONUS R)	\$ 2,636.60	\$ 32.96	\$ 22.92	\$ 34,408	\$ 68,815
1158-1	PR FINGERPRINT IDEN. EXPERT I	\$ 2,411.20	\$ 30.14	\$ 20.96	\$ 31,466	\$ 62,932
1158-2	PR FINGERPRINT IDEN. EXPERT II	\$ 2,548.80	\$ 31.86	\$ 22.16	\$ 33,262	\$ 66,524
2203	PR FORENSIC PR SPECIALIST	\$ 3,834.40	\$ 47.93	\$ 33.33	\$ 50,039	\$ 100,078
3210	PR PROPERTY OFFICER	\$ 2,314.40	\$ 28.93	\$ 20.12	\$ 30,203	\$ 60,406
1525-2	PRINCIPAL ACCOUNTANT II	\$ 3,145.20	\$ 39.32	\$ 27.34	\$ 41,045	\$ 82,090
1152-2	PRINCIPAL CLERK POLICE II	\$ 2,237.82	\$ 27.97	\$ 19.45	\$ 29,204	\$ 58,407
1152-2	PRINCIPAL CLERK POLICE II (BONUS N)	\$ 2,249.80	\$ 28.12	\$ 19.56	\$ 29,360	\$ 58,720
1152-3	PRINCIPAL CLERK POLICE III	\$ 2,460.91	\$ 30.76	\$ 21.39	\$ 32,115	\$ 64,230
1152-3	PRINCIPAL CLERK POLICE III (BONUS N)	\$ 2,463.50	\$ 30.79	\$ 21.41	\$ 32,149	\$ 64,297
1152-3	PRINCIPAL CLERK POLICE III (BONUS P)	\$ 2,318.40	\$ 28.98	\$ 20.15	\$ 30,255	\$ 60,510
1794	PRINCIPAL PHOTOGRAPHER	\$ 3,216.80	\$ 40.21	\$ 27.96	\$ 41,979	\$ 83,958
1786	PRINCIPAL PUBLIC RELATIONS SPECIALIST	\$ 2,676.80	\$ 33.46	\$ 23.27	\$ 34,932	\$ 69,864
1431-4	PROGRAMMER/ANALYST IV	\$ 3,307.20	\$ 41.34	\$ 28.75	\$ 43,159	\$ 86,318
3207	PROPERTY OFFICER	\$ 1,804.15	\$ 22.55	\$ 15.68	\$ 23,544	\$ 47,088
1800-1	PUBLIC INFORMATION DIRECTOR I	\$ 3,420.80	\$ 42.76	\$ 29.74	\$ 44,641	\$ 89,283
1800-2	PUBLIC INFORMATION DIRECTOR II	\$ 3,728.80	\$ 46.61	\$ 32.41	\$ 48,661	\$ 97,322

**WAGES AND COUNT
CIVILIAN 2005-2006**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	INDIRECT ADMIN @ 69.54% (CAP 27)	6 MONTH SALARY	ANNUAL SALARY
1785-1	PUBLIC RELATIONS SPECIALIST I	\$ 1,882.40	\$ 23.53	\$ 16.36	\$ 24,565	\$ 49,131
1576-2	REHAB TRAINEE/TRANSITIONAL WORKER	\$ 2,028.00	\$ 25.35	\$ 17.63	\$ 26,465	\$ 52,931
1362-1	REPROGRAPHICS OPERATOR I	\$ 1,628.00	\$ 20.35	\$ 14.15	\$ 21,245	\$ 42,491
1116	SECRETARY	\$ 1,969.54	\$ 24.62	\$ 17.12	\$ 25,702	\$ 51,405
3181	SECURITY OFFICER	\$ 1,645.35	\$ 20.57	\$ 14.30	\$ 21,472	\$ 42,944
1523-1	SENIOR ACCOUNTANT I	\$ 1,645.35	\$ 20.57	\$ 14.30	\$ 21,472	\$ 42,944
1523-2	SENIOR ACCOUNTANT II	\$ 2,342.40	\$ 29.28	\$ 20.36	\$ 30,568	\$ 61,137
1518	SENIOR AUDITOR	\$ 2,490.40	\$ 31.13	\$ 21.65	\$ 32,500	\$ 64,999
1518	SENIOR AUDITOR (BONUS R)	\$ 3,174.00	\$ 39.68	\$ 27.59	\$ 41,421	\$ 82,841
1323	SENIOR CLERK STENOGRAPHER	\$ 1,930.40	\$ 24.13	\$ 16.78	\$ 25,192	\$ 50,383
1368	SENIOR CLERK TYPIST	\$ 1,812.97	\$ 22.66	\$ 15.76	\$ 23,659	\$ 47,319
1368	SENIOR CLERK TYPIST (BONUS N)	\$ 1,909.77	\$ 23.87	\$ 16.60	\$ 24,922	\$ 49,845
1368	SENIOR CLERK TYPIST (BONUS R)	\$ 1,855.40	\$ 23.19	\$ 16.13	\$ 24,213	\$ 48,426
0602-2	SPECIAL INVESTIGATOR II	\$ 3,344.70	\$ 41.81	\$ 29.07	\$ 43,648	\$ 87,297
3716	SR AUTOMOTIVE SUPERVISOR	\$ 2,743.20	\$ 34.29	\$ 23.85	\$ 35,799	\$ 71,598
1143	SR CLERK	\$ 1,828.80	\$ 22.86	\$ 15.90	\$ 23,866	\$ 47,732
3212	SR DETENTION OFFICER	\$ 2,153.80	\$ 26.92	\$ 18.72	\$ 28,107	\$ 56,214
3712-5	SR EQUIPMENT MECHANIC	\$ 2,314.57	\$ 28.93	\$ 20.12	\$ 30,205	\$ 60,410
3231	SR EXAM QUESTIONED DOCUMENTS	\$ 3,936.00	\$ 49.20	\$ 34.21	\$ 51,365	\$ 102,730
2201	SR FORENSIC PR SPECIALIST	\$ 3,516.16	\$ 43.95	\$ 30.56	\$ 45,886	\$ 91,772
3533	SR GARAGE ATTENDANT	\$ 1,540.80	\$ 19.26	\$ 13.39	\$ 20,107	\$ 40,215
3143	SR GARDENER	\$ 1,748.80	\$ 21.86	\$ 15.20	\$ 22,822	\$ 45,644
9171-1	SR MANAGEMENT ANALYST I	\$ 3,196.09	\$ 39.95	\$ 27.78	\$ 41,709	\$ 83,418
9171-2	SR MANAGEMENT ANALYST II	\$ 3,854.16	\$ 48.18	\$ 33.50	\$ 50,297	\$ 100,594
9167-1	SR PERSONNEL ANALYST I	\$ 3,193.40	\$ 39.92	\$ 27.76	\$ 41,674	\$ 83,348
9167-2	SR PERSONNEL ANALYST II	\$ 4,039.20	\$ 50.49	\$ 35.11	\$ 52,712	\$ 105,423
1795-1	SR PHOTOGRAPHER I	\$ 2,603.20	\$ 32.54	\$ 22.63	\$ 33,972	\$ 67,944
1795-2	SR PHOTOGRAPHER II	\$ 2,756.00	\$ 34.45	\$ 23.96	\$ 35,966	\$ 71,932
2209-1	SR POLICE SERVICE REP I	\$ 2,797.14	\$ 34.96	\$ 24.31	\$ 36,503	\$ 73,005
2209-2	SR POLICE SERVICE REP II	\$ 3,000.00	\$ 37.50	\$ 26.08	\$ 39,150	\$ 78,300
3209	SR PROPERTY OFFICER	\$ 2,108.80	\$ 26.36	\$ 18.33	\$ 27,520	\$ 55,040
3184	SR SECURITY OFFICER	\$ 1,788.00	\$ 22.35	\$ 15.54	\$ 23,333	\$ 46,667
1837-1	SR STOREKEEPER I	\$ 2,049.60	\$ 25.62	\$ 17.82	\$ 26,747	\$ 53,495
1597-1	SR SYSTEMS ANALYST I	\$ 3,172.87	\$ 39.66	\$ 27.58	\$ 41,406	\$ 82,812
1597-2	SR SYSTEMS ANALYST II	\$ 3,978.17	\$ 49.73	\$ 34.58	\$ 51,915	\$ 103,830
6405	SR TRANSIT ANALYST	\$ 3,260.00	\$ 40.75	\$ 28.34	\$ 42,543	\$ 85,086
1835-1	STOREKEEPER I	\$ 1,784.00	\$ 22.30	\$ 15.51	\$ 23,281	\$ 46,562
1835-2	STOREKEEPER II	\$ 1,774.40	\$ 22.18	\$ 15.42	\$ 23,156	\$ 46,312
1502	STUDENT PROFESSIONAL WORKER	\$ 1,023.36	\$ 12.79	\$ 8.90	\$ 13,355	\$ 26,710
2235	SUPERVISING CRIMINALIST	\$ 3,907.40	\$ 48.84	\$ 33.97	\$ 50,992	\$ 101,983

**WAGES AND COUNT
CIVILIAN 2005-2006**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	HOURLY RATE	INDIRECT ADMIN @ 69.54% (CAP 27)	6 MONTH SALARY	ANNUAL SALARY
2235	SUPERVISING CRIMINALIST (BONUS W)	\$ 4,269.60	\$ 53.37	\$ 37.11	\$ 55,718	\$ 111,437
1599	SYSTEMS AIDE	\$ 1,960.00	\$ 24.50	\$ 17.04	\$ 25,578	\$ 51,156
1599	SYSTEMS AIDE (BONUS Y)	\$ 2,072.80	\$ 25.91	\$ 18.02	\$ 27,050	\$ 54,100
1596-1	SYSTEMS ANALYST I	\$ 2,335.20	\$ 29.19	\$ 20.30	\$ 30,474	\$ 60,949
1596-2	SYSTEMS ANALYST II	\$ 2,682.99	\$ 33.54	\$ 23.32	\$ 35,013	\$ 70,026
6401	TRANSIT AIDE	\$ 1,960.00	\$ 24.50	\$ 17.04	\$ 25,578	\$ 51,156
6400	TRANSIT SECRETARY	\$ 1,985.60	\$ 24.82	\$ 17.26	\$ 25,912	\$ 51,824
3583	TRUCK OPERATOR	\$ 1,748.80	\$ 21.86	\$ 15.20	\$ 22,822	\$ 45,644
3723-5	UPHOLSTERER	\$ 2,184.80	\$ 27.31	\$ 18.99	\$ 28,512	\$ 57,023
3796	WELDER	\$ 2,310.40	\$ 28.88	\$ 20.08	\$ 30,151	\$ 60,301
1832-1	WRHSE & TOOL RM WRKR I	\$ 1,478.40	\$ 18.48	\$ 12.85	\$ 19,293	\$ 38,586
1832-2	WRHSE & TOOL RM WRKR II	\$ 1,636.00	\$ 20.45	\$ 14.22	\$ 21,350	\$ 42,700

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS			For State Controller Use Only (19) Program Number 00187 (20) Date Filed ___/___/___ (21) LRSInput ___/___/___		Program <div style="font-size: 2em; font-weight: bold;">187</div>		
(01) Claimant Identification Number <div style="text-align: center; font-weight: bold;">9819487</div>			Reimbursement Claim Data				
(02) Claimant Name <div style="text-align: center; font-weight: bold;">City of Los Angeles</div>			(22) <div style="text-align: center;">PPBR-1,(03)(a)</div>		<div style="font-size: 1.5em;">0</div>		
County of Location <div style="text-align: center; font-weight: bold;">Los Angeles</div>			(23) <div style="text-align: center;">PPBR-1,(03)(b)</div>		<div style="font-size: 1.5em;">6,929</div>		
Street Address or P.O. Box Suite <div style="text-align: center; font-weight: bold;">150 N. Los Angeles Street Room 712</div>			(24) <div style="text-align: center;">PPBR-1,(03)(c)</div>		<div style="font-size: 1.5em;">6,898</div>		
City State Zip Code <div style="text-align: center; font-weight: bold;">Los Angeles CA 90012</div>			(25) <div style="text-align: center;">PPBR-1,(03)(d)</div>		<div style="font-size: 1.5em;">31</div>		
Type of Claim	Estimated Claim (03) Estimated <input checked="" type="checkbox"/>		Reimbursement Claim (09) Reimbursement <input checked="" type="checkbox"/>		(26) <div style="text-align: center;">PPBR-1,(04)(1)(e)</div>		<div style="font-size: 1.5em;">880,452</div>
	(04) Combined <input type="checkbox"/>		(10) Combined <input type="checkbox"/>		(27) <div style="text-align: center;">PPBR-1,(04)(2)(e)</div>		<div style="font-size: 1.5em;">0</div>
	(05) Amended <input type="checkbox"/>		(11) Amended <input type="checkbox"/>		(28) <div style="text-align: center;">PPBR-1,(04)(3)(e)</div>		<div style="font-size: 1.5em;">3,662,305</div>
					(29) <div style="text-align: center;">PPBR-1,(04)(4)(e)</div>		<div style="font-size: 1.5em;">6,152,868</div>
Fiscal Year of Cost <div style="text-align: center; font-weight: bold;">2007-2008</div>		(12) <div style="text-align: center; font-weight: bold;">2006-2007</div>		(30) <div style="text-align: center;">PPBR-1,(06)</div>		<div style="font-size: 1.5em;">44.87, 29.2</div>	
Total Claimed Amount <div style="text-align: center; font-weight: bold;">\$11,162,500</div>		(13) <div style="text-align: center; font-weight: bold;">\$13,953,125</div>		(31) <div style="text-align: center;">PPBR-1,(07)</div>		<div style="font-size: 1.5em;">3,257,500</div>	
LESS: 10% Late Penalty, not to exceed \$1,000		(14)		(32) <div style="text-align: center;">PPBR-1,(09)</div>		<div style="font-size: 1.5em;">0</div>	
LESS: Estimated Claim Payment Received		(15)		(33) <div style="text-align: center;">PPBR-1,(10)</div>		<div style="font-size: 1.5em;">0</div>	
Net Claimed Amount		(16) <div style="text-align: center; font-weight: bold;">\$13,953,125</div>		(34)			
Due from State <div style="text-align: center; font-weight: bold;">\$11,162,500</div>		(17) <div style="text-align: center; font-weight: bold;">\$13,953,125</div>		(35)			
Due to State		(18)		(36)			
(37) CERTIFICATION OF CLAIM <p>In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under the penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 through 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> Signature of Authorized Officer <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-weight: bold;">Laura Filatoff</div> <div style="font-size: 0.8em;">Print or type name</div> </div> <div style="width: 45%;"> Date <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-weight: bold;">Commanding Officer, FOD</div> <div style="font-size: 0.8em;">Title</div> </div> </div> <div style="margin-top: 10px;"> (38) Name of Contact Person for Claim <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-weight: bold;">Allan Burdick</div> </div> <div style="width: 50%;"> Telephone Number <div style="font-weight: bold;">(916) 485-8102</div> X <div style="font-weight: bold;">113</div> E-mail Address <div style="font-weight: bold;">allanburdick@maximus.com</div> </div> </div> </div>							

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY	FORM PPBR-1			
(01) Claimant: City of Los Angeles		(02) Fiscal year costs were incurred: 2006-2007			
Claim Statistics					
(03) (a) Number of cases in process at the beginning of the fiscal year		0			
(b) Number of new cases added during the fiscal year		6929			
(c) Number of cases completed or closed during the fiscal year		6898			
(d) Number of cases in process at the end of the year		31			
Direct Costs					
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	d) Travel and Training	(e) Total
1. Administrative Activities	\$613,488	\$266,964			\$880,452
2. Administrative Appeal					
3. Interrogations	\$2,550,707	\$1,111,598			\$3,662,305
4. Adverse Comment	\$4,286,764	\$1,866,104			\$6,152,868
(05) Total Direct Costs	\$7,450,959	\$3,244,666			\$10,695,625
Indirect Costs					
(06) Indirect Cost Rate (From ICRP)	Salary and Wages				See Summary
(07) Indirect Costs	[Line (06) x Line (05)(a)]				\$3,257,500
(08) Total Direct and Indirect Costs	[Line (05)(e) + Line (07)]				\$13,953,125
Cost Reductions					
(09) Less Offsetting Savings, if applicable					
(10) Less Other Reimbursements, if applicable					
(11) Total Claimed Amount:	{Line(08)- [Line (09) + Line(10)]}				\$13,953,125

Revised 09/03

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2006-2007				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input checked="" type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)						Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The following staff spent time performing Administrative Activities related to the POBAR process. This includes updating the status of the POBAR cases.								
Captain II	\$89.51	43.6%	831.48			\$74,426	\$32,435	\$106,861
Captain III	\$95.59	43.6%	1177.93			\$112,598	\$49,070	\$161,669
Lieutenant	\$70.61	43.6%	138.58			\$9,785	\$4,264	\$14,049
Lieutenant II	\$74.85	43.6%	207.87			\$15,559	\$6,781	\$22,340
Sergeant I	\$60.47	43.6%	346.45			\$20,950	\$9,130	\$30,080
Sergeant II	\$63.84	43.6%	831.48			\$53,082	\$23,133	\$76,215
Detective II	\$60.38	43.6%	1524.38			\$92,042	\$40,112	\$132,154
Detective III	\$66.50	43.6%	2217.28			\$147,449	\$64,258	\$211,707
Sr. Clerk Typist**	\$28.33	43.1%	900.77			\$25,519	\$11,006	\$36,525
Clerk Typist**	\$22.91	43.1%	831.48			\$19,049	\$8,216	\$27,265
Principal Clerk Police II**	\$34.50	43.1%	1247.22			\$43,029	\$18,558	\$61,588
Total Cases	6929							
**See attached Indirect Cost breakdown for Civilian and Sworn employees								
<u>Please see attached FTE calculations.</u>								
Civilian 1701 hours Sworn 1652 hours								
The agency named above has made every effort not to include costs relating to the "Skelly Process".								
(05) Total (X) Subtotal ()				Page: ____ of ____		\$613,488	\$266,964	\$880,452

Program
187

MANDATED COSTS
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
COMPONENT / ACTIVITY COST DETAIL

FORM
PPBR-2

(01) Claimant: **City of Los Angeles**

(02) Fiscal year costs were incurred:

2006-2007

(03) Reimbursable Components: Check ONLY one box per form to identify the component being claimed.

☐ Administrative Activities

☒ Administrative Appeal

☐ Interrogations

☐ Adverse Comment

(04) Description of Expense: Complete columns (a) through (g)

Object Accounts

(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
<p><u>Administrative Appeal</u></p> <p>The City has not included any costs in this claim component due to the difficulty of documenting the mandated costs incurred its Board of Rights hearing process that would meet the State Controller's audit requirements.</p>								
<p><i>The agency named above has made every effort not to include costs relating to the "Skelly Process".</i></p>								
(05) Total ()	Subtotal ()	Page: ____ of ____						

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2		
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2006-2007					
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.									
<input type="checkbox"/> Administrative Activities				<input type="checkbox"/> Administrative Appeal					
<input checked="" type="checkbox"/> Interrogations				<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)							Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)			
						Salaries	Benefits	Total Sal. & Bens	
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The following staff spent time providing prior notice to the peace officer under investigation regarding the nature of the interrogation. This includes reviewing the complaints to prepare the notice of interrogation, determining the investigating officers, prep. of notice, and presentation of complaint to the peace officer.									
Detective I	\$56.45	43.6%	4704.79			\$265,585	\$115,742	\$381,328	
Detective II	\$60.38	43.6%	5196.75			\$313,780	\$136,745	\$450,525	
Detective III	\$66.50	43.6%	4379.13			\$291,212	\$126,910	\$418,122	
Sergeant I	\$60.47	43.6%	5002.74			\$302,516	\$131,836	\$434,352	
Sergeant II	\$63.84	43.6%	5799.57			\$370,245	\$161,353	\$531,597	
Lieutenant II	\$74.85	43.6%	7012.15			\$524,859	\$228,734	\$753,593	
Total Cases								6929	
The following staff represents witness and subject time spent in interrogations.									
Peace Officer II - Witness .41/hr per case (23%)	\$46.54	43.6%	2840.89			\$132,215	\$57,619	\$189,834	
Peace Officer II -Subject - 1.375/hr per case (77%)	\$46.54	43.6%	7526.75			\$350,295	\$152,659	\$502,953	
<i>1.786/hr is the total interrogation time spent by the witness or subject officer on the phone or in person. 77% of this time is spent on the subject, 23% on the witness. On average 21% of the cases result in discipline. Since the interrogation of a subject officer who is disciplined is not eligible, the subject officer claimed time for only 79% of the cases, or 5474 cases.</i>									
<u>Please see attached FTE calculations.</u> Civilian 1701 hours Sworn 1652 hours									
<i>The agency named above has made every effort not to include costs relating to the "Skelly Process".</i>									
(05) Total (X) Subtotal ()				Page: ____ of ____		\$2,550,707	\$1,111,598	\$3,662,305	

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2	
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2006-2007				
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<input type="checkbox"/> Administrative Activities			<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations			<input checked="" type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)						Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)		
						Salaries	Benefits	Total Sal. & Bens
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The above individuals spent time reviewing the circumstances or documentation leading to an adverse comment, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to the officer and notification concerning rights regarding the same; review of response and attaching same to adverse comment.								
Lieutenant I	\$70.61	43.6%	4642.43			\$327,802	\$142,856	\$470,658
Lieutenant II	\$74.85	43.6%	6443.97			\$482,331	\$210,200	\$692,531
Captain I	\$79.43	43.6%	3118.05			\$247,667	\$107,933	\$355,600
Captain II	\$89.51	43.6%	4503.85			\$403,140	\$175,688	\$578,828
Captain III	\$95.59	43.6%	3949.53			\$377,536	\$164,530	\$542,066
Sergeant I	\$60.47	43.6%	14065.87			\$850,563	\$370,675	\$1,221,239
Sergeant II	\$63.84	43.6%	4642.43			\$296,373	\$129,159	\$425,532
Detective I	\$56.45	43.6%	346.45			\$19,557	\$8,523	\$28,080
Detective II	\$60.38	43.6%	6443.97			\$389,087	\$169,564	\$558,651
Detective III	\$66.50	43.6%	5058.17			\$336,368	\$146,589	\$482,958
Police Officer II	\$46.54	43.6%	2078.70			\$96,743	\$42,160	\$138,903
Clerk Typist**	\$22.91	43.1%	346.45			\$7,937	\$3,423	\$11,360
Sr. Clerk Typist**	\$28.33	43.1%	2633.02			\$74,593	\$32,172	\$106,766
Police Service Representative**	\$33.99	43.1%	2563.73			\$87,141	\$37,584	\$124,725
Management Analyst II**	\$41.99	43.1%	5196.75			\$218,212	\$94,115	\$312,326
Principal Clerk Police II**	\$34.50	43.1%	2078.70			\$71,715	\$30,931	\$102,646
Total Cases	6929							
**See attached Indirect Cost breakdown for Civilian and Sworn employees <u>Please see attached FTE calculations.</u> Civilian 1701 hours Sworn 1652 hours The agency named above has made every effort not to include costs relating to the "Skelly Process".								
(05) Total (X) Subtotal ()				Page: ____ of ____		\$4,286,764	\$1,866,104	\$6,152,868

MANDATED COSTS
Peace Officers Procedural Bill of Rights
COMPONENT / ACTIVITY COST DETAIL

FORM
ICRP Summary

(01) Claimant: City of Los Angeles

(02) Fiscal year costs were incurred:

2006-2007

Indirect Cost Summary Sheet

- By Department -

Department	ICRP		Total Direct		Total Indirect Costs		
	Base	Percent	Salaries	Benefits	S&W	S&W&B	Total
Enter ICRP Rate in column F. Below each department "x" option rate is based on - "Salaries & Benefits" or "Salaries only"							
Salaries only							
Salaries & Benefits							
Police: Sworn	S&W	44.9%	\$6,903,764	\$3,008,660	\$3,097,719		
X							
Police Civilian	S&W	29.2%	\$547,196	\$236,005	\$159,781		
X							
							\$3,257,500
Check totals on claim summary page: Total Service & Supply Total Travel & Training Salaries 7,450,959 Benefits 3,244,666 <u>\$3,257,500</u> Claim total \$13,953,125							
			\$ 7,450,959	\$ 3,244,666	\$ 3,257,500		

ICRP attachment to RVC multi rate claim

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2006-2007**

CLASS CODE	TITLE	BONUS	05-06 AVG. SALARY	AVG BI-WKLY SALARY 06/07 w/ 4% INCREASE	HOURLY RATE	IND. FIELD @115.94% (CAP 29)	IND. ADMIN @ 88.45% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
2214-1	POLICE OFFICER I		\$2,056.35	2,138.60	26.73	30.99	23.64	27,909	55,818
2214-2	POLICE OFFICER II		\$2,832.39	2,945.69	36.82	42.69	32.57	38,441	76,882
2214G	POLICE OFFICER II	G	\$3,356.03	3,490.27	43.63	50.58	38.59	45,548	91,096
2214H	POLICE OFFICER II	H	\$4,271.79	4,442.66	55.53	64.39	49.12	57,977	115,953
2214-2+1	POLICE OFFICER II	L	\$3,373.34	3,508.27	43.85	50.84	38.79	45,783	91,566
2214M	POLICE OFFICER II	M	\$3,428.55	3,565.69	44.57	51.68	39.42	46,532	93,065
2214-3	POLICE OFFICER III		\$3,210.83	3,339.26	41.74	48.39	36.92	43,577	87,155
2214-3A	POLICE OFFICER III	A	\$3,525.08	3,666.08	45.83	53.13	40.53	47,842	95,685
2214-3B	POLICE OFFICER III	B	\$3,353.20	3,487.33	43.59	50.54	38.56	45,510	91,019
2214-3C	POLICE OFFICER III	C	\$3,401.30	3,537.35	44.22	51.27	39.11	46,162	92,325
2214-3D	POLICE OFFICER III	D	\$3,547.20	3,689.09	46.11	53.46	40.79	48,143	96,285
2214-3E	POLICE OFFICER III	E	\$3,456.58	3,594.84	44.94	52.10	39.75	46,913	93,825
2214-3F	POLICE OFFICER III	F	\$3,419.02	3,555.78	44.45	51.53	39.31	46,403	92,806
2214-3G	POLICE OFFICER III	G	\$4,049.32	4,211.29	52.64	61.03	46.56	54,957	109,915
2214-3J	POLICE OFFICER III	J	\$4,528.80	4,709.95	58.87	68.26	52.07	61,465	122,930
2214-3K	POLICE OFFICER III	K	\$3,816.23	3,968.88	49.61	57.52	43.88	51,794	103,588
2214-3O	POLICE OFFICER III	O	\$3,425.91	3,562.95	44.54	51.64	39.39	46,496	92,993
2214-3P	POLICE OFFICER III	P	\$3,441.92	3,579.60	44.74	51.88	39.58	46,714	93,427
2214-3+1	POLICE OFFICER III	R	\$3,518.69	3,659.44	45.74	53.03	40.46	47,756	95,511
2214-3S	POLICE OFFICER III	S	\$3,743.00	3,892.72	48.66	56.42	43.04	50,800	101,600
2214-3T	POLICE OFFICER III	T	\$3,467.74	3,606.45	45.08	52.27	39.87	47,064	94,128
2214-3W	POLICE OFFICER III	W	\$3,483.75	3,623.10	45.29	52.51	40.06	46,834	93,262
2217	POLICE SPECIALIST		\$2,271.89	2,362.77	29.53	34.24	26.12	30,834	61,668
2223-1	POLICE DETECTIVE I		\$3,435.81	3,573.24	44.67	51.79	39.51	46,631	93,262
2223-1K	POLICE DETECTIVE I	K	\$4,074.40	4,237.38	52.97	61.41	46.85	55,298	110,596
2223-1L	POLICE DETECTIVE I	L	\$3,578.60	3,721.74	46.52	53.94	41.15	48,569	97,138
2223-2	POLICE DETECTIVE II		\$3,674.61	3,821.59	47.77	55.38	42.25	49,872	99,744
2223-2K	POLICE DETECTIVE II	K	\$4,323.65	4,496.60	56.21	65.17	49.72	58,681	117,361
2223-2L	POLICE DETECTIVE II	L	\$3,966.15	4,124.80	51.56	59.78	45.60	53,829	107,657
2223-2Y	POLICE DETECTIVE II	Y	\$3,959.20	4,117.57	51.47	59.67	45.52	53,734	107,469
2223-3	POLICE DETECTIVE III		\$4,047.23	4,209.12	52.61	61.00	46.54	54,929	109,858
2223-3L	POLICE DETECTIVE III	L	\$4,300.00	4,472.00	55.90	64.81	49.44	58,360	116,719

FY 2006-2007

CLASS CODE	TITLE	BONUS	05-06 AVG. SALARY	AVG BI-WKLY SALARY 06/07 w/ 4% INCREASE	HOURLY RATE	IND. FIELD @115.94% (CAP 29)	IND. ADMIN. @88.45% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
2227-1	POLICE SERGEANT I		\$3,680.02	3,827.22	47.84	55.47	42.31	49,945	99,890
2227-1M	POLICE SERGEANT I	M	\$4,141.77	4,307.44	53.84	62.43	47.62	56,212	112,424
2227-1T	POLICE SERGEANT I	T	\$4,259.47	4,429.85	55.37	64.20	48.98	57,810	115,619
2227-2	POLICE SERGEANT II		\$3,885.11	4,040.51	50.51	58.56	44.67	52,729	105,457
2227-2G	POLICE SERGEANT II	G	\$4,788.80	4,980.35	62.25	72.18	55.06	64,994	129,987
2227-2K	POLICE SERGEANT II	K	\$4,453.00	4,631.12	57.89	67.12	51.20	60,436	120,872
2227-2S	POLICE SERGEANT II	S	\$4,372.80	4,547.71	56.85	65.91	50.28	59,348	118,695
2227-2T	POLICE SERGEANT II	T	\$4,146.85	4,312.72	53.91	62.50	47.68	56,281	112,562
2227-2X	POLICE SERGEANT II	X	\$4,349.16	4,523.13	56.54	65.55	50.01	59,027	118,054
2232-1	POLICE LIEUTENANT I		\$4,297.65	4,469.56	55.87	64.78	49.42	58,328	116,655
2232-1Q	POLICE LIEUTENANT I	Q	\$4,788.80	4,980.35	62.25	72.18	55.06	64,994	129,987
2232-1Y	POLICE LIEUTENANT I	Y	\$5,056.80	5,259.07	65.74	76.22	58.15	68,631	137,262
2232-2	POLICE LIEUTENANT II		\$4,555.47	4,737.69	59.22	68.66	52.38	61,827	123,654
2232-2Y	POLICE LIEUTENANT II	Y	\$5,056.80	5,259.07	65.74	76.22	58.15	68,631	137,262
2244-1	POLICE CAPTAIN I		\$5,056.80	5,259.07	65.74	76.22	58.15	68,631	137,262
2244-2	POLICE CAPTAIN II		\$4,834.17	5,027.54	62.84	72.86	55.59	65,609	131,219
2244-3	POLICE CAPTAIN III		\$5,447.89	5,665.81	70.82	82.11	62.64	73,939	147,878
2251	POLICE COMMANDER		\$5,817.91	6,050.63	75.63	87.69	66.90	78,961	157,921
2251Y	POLICE COMMANDER	Y	\$6,407.43	6,663.73	83.30	96.57	73.68	86,962	173,923
2262-1	POLICE DEPUTY CHIEF I		\$6,783.20	7,054.53	88.18	102.24	78.00	92,062	184,123
2262-1Y	POLICE DEPUTY CHIEF I	Y	\$6,893.26	7,168.99	89.61	103.90	79.26	93,555	187,111
2262-2	POLICE DEPUTY CHIEF II		\$7,089.60	7,373.18	92.16	106.86	81.52	96,220	192,440
			\$7,538.40	7,839.94	98.00	113.62	86.68	102,311	204,622
			CAP 29 - Total Sworn Overhead			88.45%			
			CAP 29 - Total Sworn Overhead plus Department Field Support			115.94%			

**WAGES AND COUNT
CIVILIAN 2006-2007**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	AVG BI-WEEKLY w/ July 2006 and January 2007 2% and 2.25% Increase	HOURLY RATE	INDIRECT ADMIN @ 72.33% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
0020	POLICE PERMIT REVIEW PANEL						
0101	POLICE COMMISSIONER	\$ 5,556.80	\$ -	\$ -	\$ -	\$ -	\$ -
0600	EXECUTIVE DIRECTOR POLICE COMMISSION	\$ 5,556.80	\$ 5,795.46	\$ 72.44	\$ 52.40	\$ 75,631	\$ 151,262
0601	INSPECTOR GENERAL	\$ 3,154.32	\$ 3,289.80	\$ 72.44	\$ 52.40	\$ 75,631	\$ 151,262
0602-2	SPECIAL INVESTIGATOR II	\$ 4,656.80	\$ 4,856.81	\$ 60.71	\$ 43.91	\$ 63,381	\$ 126,763
0603	ASSISTANT INSPECTOR GENERAL	\$ 900.53	\$ 939.21	\$ 11.74	\$ 8.49	\$ 12,257	\$ 24,513
1101	OFFICE TRAINEE	\$ 2,002.11	\$ 2,088.10	\$ 26.10	\$ 18.88	\$ 27,250	\$ 54,499
1116	SECRETARY	\$ 2,359.02	\$ 2,460.34	\$ 30.75	\$ 22.24	\$ 32,107	\$ 64,215
1117-2	EXECUTIVE SECRETARY II	\$ 2,565.60	\$ 2,675.79	\$ 33.45	\$ 24.19	\$ 34,919	\$ 69,838
1117-3	EXECUTIVE SECRETARY III	\$ 1,439.20	\$ 1,501.01	\$ 18.76	\$ 13.57	\$ 19,588	\$ 39,176
1121-1	DELIVERY DRIVER I	\$ 2,258.00	\$ 2,354.98	\$ 29.44	\$ 21.29	\$ 30,733	\$ 61,465
1129	PERSONNEL RECORDS SUPERVISOR	\$ 1,443.00	\$ 1,504.98	\$ 18.81	\$ 13.61	\$ 19,640	\$ 39,280
1141	CLERK	\$ 1,828.80	\$ 1,907.35	\$ 23.84	\$ 17.24	\$ 24,891	\$ 49,782
1143	SR CLERK	\$ 2,248.30	\$ 2,344.86	\$ 29.31	\$ 21.20	\$ 30,600	\$ 61,201
1152-2	PRINCIPAL CLERK POLICE II	\$ 2,303.20	\$ 2,402.12	\$ 30.03	\$ 21.72	\$ 31,348	\$ 62,695
1152-2N	PRINCIPAL CLERK POLICE II (BONUS N)	\$ 2,481.51	\$ 2,588.09	\$ 32.35	\$ 23.40	\$ 33,775	\$ 67,549
1152-3	PRINCIPAL CLERK POLICE III	\$ 2,502.40	\$ 2,609.88	\$ 32.62	\$ 23.60	\$ 34,059	\$ 68,118
1152-3N	PRINCIPAL CLERK POLICE III (BONUS N)	\$ 1,978.45	\$ 2,063.42	\$ 25.79	\$ 18.66	\$ 26,928	\$ 53,855
1157-1	FINGERPRINT IDEN. EXPERT I	\$ 20,475.60	\$ 21,355.03	\$ 266.94	\$ 193.08	\$ 278,683	\$ 557,366
1157-2	FINGERPRINT IDEN. EXPERT II	\$ 2,191.60	\$ 2,285.73	\$ 28.57	\$ 20.67	\$ 29,829	\$ 59,658
1157-3	FINGERPRINT IDEN. EXPERT III	\$ 2,347.60	\$ 2,448.43	\$ 30.61	\$ 22.14	\$ 31,952	\$ 63,904
1158-1	PR FINGERPRINT IDEN. EXPERT I	\$ 2,313.20	\$ 2,412.55	\$ 30.16	\$ 21.81	\$ 31,484	\$ 62,968
1170-1	PAYROLL SUPERVISOR I	\$ 2,668.00	\$ 2,782.59	\$ 34.78	\$ 25.16	\$ 36,313	\$ 72,626
1170-2	PAYROLL SUPERVISOR II	\$ 1,764.68	\$ 1,840.47	\$ 23.01	\$ 16.64	\$ 24,018	\$ 48,036
1223-1	ACCOUNTING CLERK I	\$ 1,907.80	\$ 1,989.74	\$ 24.87	\$ 17.99	\$ 25,966	\$ 51,932
1223-2	ACCOUNTING CLERK II	\$ 2,816.80	\$ 2,937.78	\$ 36.72	\$ 26.56	\$ 38,338	\$ 76,676
1249-2	CHIEF CLERK POLICE II	\$ 1,641.20	\$ 1,711.69	\$ 21.40	\$ 15.48	\$ 22,338	\$ 44,675
1321	CLERK STENOGRAPHER	\$ 1,930.40	\$ 2,013.31	\$ 25.17	\$ 18.20	\$ 26,214	\$ 52,547
1323	SENIOR CLERK STENOGRAPHER	\$ 2,413.87	\$ 2,517.55	\$ 31.47	\$ 22.76	\$ 32,854	\$ 65,708
1326	HEARING REPORTER	\$ 1,493.31	\$ 1,557.45	\$ 19.47	\$ 14.08	\$ 20,325	\$ 40,649
1358	CLERK TYPIST	\$ 1,215.73	\$ 1,267.95	\$ 15.85	\$ 11.46	\$ 16,547	\$ 33,093
1360	OFFICE SERVICES ASSISTANT	\$ 1,846.31	\$ 1,925.61	\$ 24.07	\$ 17.41	\$ 25,129	\$ 50,258
1368	SENIOR CLERK TYPIST	\$ 1,936.36	\$ 2,019.53	\$ 25.24	\$ 18.26	\$ 26,355	\$ 52,710
1368N	SENIOR CLERK TYPIST (BONUS N)	\$ 1,930.40	\$ 2,013.31	\$ 25.17	\$ 18.20	\$ 26,214	\$ 52,547
1368R	SENIOR CLERK TYPIST (BONUS R)	\$ 2,741.60	\$ 2,859.35	\$ 35.74	\$ 25.85	\$ 37,315	\$ 74,629
1431-3	PROGRAMMER/ANALYST III	\$ 3,307.20	\$ 3,449.24	\$ 43.12	\$ 31.19	\$ 45,013	\$ 90,025
1431-4	PROGRAMMER/ANALYST IV	\$ 1,683.20	\$ 1,755.49	\$ 21.94	\$ 15.87	\$ 22,909	\$ 45,818
1432-2	DATA ENTRY OPERATOR II	\$ 3,449.60	\$ 3,597.76	\$ 44.97	\$ 32.53	\$ 46,951	\$ 93,902
1470	DATA BASE ARCHITECT						

**WAGES AND COUNT
CIVILIAN 2006-2007**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	AVG BI-WEEKLY w/ July 2006 and January 2007 2% and 2.25% Increase	HOURLY RATE	INDIRECT ADMIN @ 72.33% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
1508	MANAGEMENT AIDE	\$ 1,972.80	\$ 2,057.53	\$ 25.72	\$ 18.60	\$ 26,851	\$ 53,702
1508Y	MANAGEMENT AIDE (BONUS Y)	\$ 2,106.10	\$ 2,196.56	\$ 27.46	\$ 19.86	\$ 28,665	\$ 57,330
1513-1	ACCOUNTANT I	\$ 1,577.60	\$ 1,645.36	\$ 20.57	\$ 14.88	\$ 21,472	\$ 42,944
1513-2	ACCOUNTANT II	\$ 2,096.00	\$ 2,186.02	\$ 27.33	\$ 19.76	\$ 28,528	\$ 57,055
1518	SENIOR AUDITOR (BONUS R)	\$ 3,174.00	\$ 3,310.32	\$ 41.38	\$ 29.93	\$ 43,200	\$ 86,399
1525-2	PRINCIPAL ACCOUNTANT II	\$ 3,415.20	\$ 3,561.88	\$ 44.52	\$ 32.20	\$ 46,483	\$ 92,965
1539	MANAGEMENT ASSISTANT	\$ 1,945.69	\$ 2,029.26	\$ 25.37	\$ 18.35	\$ 26,482	\$ 52,964
1555-2	FISCAL SYSTEMS SPEC II	\$ 4,039.20	\$ 4,212.68	\$ 52.66	\$ 38.09	\$ 54,976	\$ 109,951
1576-2	REHAB TRAINEE/TRANSITIONAL WORKER	\$ 1,681.60	\$ 1,753.82	\$ 21.92	\$ 15.86	\$ 22,887	\$ 45,775
1593-2	DEPT CHIEF ACCOUNTANT II	\$ 3,898.40	\$ 4,065.84	\$ 50.82	\$ 36.76	\$ 53,059	\$ 106,118
1596-1	SYSTEMS ANALYST I	\$ 2,335.20	\$ 2,435.50	\$ 30.44	\$ 22.02	\$ 31,783	\$ 63,566
1596-2	SYSTEMS ANALYST II	\$ 2,713.20	\$ 2,829.73	\$ 35.37	\$ 25.58	\$ 36,928	\$ 73,856
1597-1	SR SYSTEMS ANALYST I	\$ 3,252.84	\$ 3,392.55	\$ 42.41	\$ 30.67	\$ 44,273	\$ 88,546
1597-2	SR SYSTEMS ANALYST II	\$ 3,938.00	\$ 4,107.14	\$ 51.34	\$ 37.13	\$ 53,598	\$ 107,196
1599	SYSTEMS AIDE	\$ 1,960.00	\$ 2,044.18	\$ 25.55	\$ 18.48	\$ 26,677	\$ 53,353
1599Y	SYSTEMS AIDE (BONUS Y)	\$ 2,469.60	\$ 2,575.67	\$ 32.20	\$ 23.29	\$ 33,612	\$ 67,225
1627-2	POLICE PERFORMANCE AUDITOR II	\$ 2,344.80	\$ 2,445.51	\$ 30.57	\$ 22.11	\$ 31,914	\$ 63,828
1627-3	POLICE PERFORMANCE AUDITOR III	\$ 3,123.40	\$ 3,257.55	\$ 40.72	\$ 29.45	\$ 42,511	\$ 85,022
1627-3Y	POLICE PERFORMANCE AUDITOR III (BONUS Y)	\$ 3,559.20	\$ 3,712.07	\$ 46.40	\$ 33.56	\$ 48,442	\$ 96,885
1627-4	POLICE PERFORMANCE AUDITOR IV	\$ 3,429.60	\$ 3,576.90	\$ 44.71	\$ 32.34	\$ 46,679	\$ 93,357
1670-2	GRAPHICS DESIGNER II	\$ 2,274.40	\$ 2,372.09	\$ 29.65	\$ 21.45	\$ 30,956	\$ 61,911
1702-1	EMERGENCY PREPAREDNESS COORD I	\$ 2,922.40	\$ 3,047.92	\$ 38.10	\$ 27.56	\$ 39,775	\$ 79,551
1731-2	PERSONNEL ANALYST II	\$ 2,738.40	\$ 2,856.01	\$ 35.70	\$ 25.82	\$ 37,271	\$ 74,542
1764-1	BACKGROUND INVESTIGATOR	\$ 2,217.60	\$ 2,312.85	\$ 28.91	\$ 20.91	\$ 30,183	\$ 60,365
1764-2	BACKGROUND INVESTIGATOR II	\$ 2,600.00	\$ 2,711.67	\$ 33.90	\$ 24.52	\$ 35,387	\$ 70,775
1779-1	OPER & STATS RES ANAL I	\$ 2,577.60	\$ 2,688.31	\$ 33.60	\$ 24.31	\$ 35,082	\$ 70,165
1779-2	OPER & STATS RES ANAL II	\$ 3,432.80	\$ 3,580.24	\$ 44.75	\$ 32.37	\$ 46,722	\$ 93,444
1785-1	PUBLIC RELATIONS SPECIALIST I	\$ 2,013.60	\$ 2,100.08	\$ 26.25	\$ 18.99	\$ 27,406	\$ 54,812
1786	PRINCIPAL PUBLIC RELATIONS SPECIALIST	\$ 2,676.80	\$ 2,791.77	\$ 34.90	\$ 25.24	\$ 36,433	\$ 72,865
1793-1	PHOTOGRAPHER I	\$ 1,831.04	\$ 1,909.68	\$ 23.87	\$ 17.27	\$ 24,921	\$ 49,843
1793-2	PHOTOGRAPHER II	\$ 2,378.00	\$ 2,480.14	\$ 31.00	\$ 22.42	\$ 32,366	\$ 64,732
1793-3	PHOTOGRAPHER III	\$ 2,523.38	\$ 2,631.76	\$ 32.90	\$ 23.79	\$ 34,344	\$ 68,689
1793-3Y	PHOTOGRAPHER III (BONUS Y)	\$ 2,558.90	\$ 2,668.80	\$ 33.36	\$ 24.13	\$ 34,828	\$ 69,656
1794	PRINCIPAL PHOTOGRAPHER	\$ 3,216.80	\$ 3,354.96	\$ 41.94	\$ 30.33	\$ 43,782	\$ 87,564
1795-1	SR PHOTOGRAPHER I	\$ 2,603.20	\$ 2,715.01	\$ 33.94	\$ 24.55	\$ 35,431	\$ 70,862
1795-2	SR PHOTOGRAPHER II	\$ 2,824.27	\$ 2,945.57	\$ 36.82	\$ 26.63	\$ 38,440	\$ 76,879
1800-1	PUBLIC INFORMATION DIRECTOR I	\$ 3,489.60	\$ 3,639.48	\$ 45.49	\$ 32.91	\$ 47,495	\$ 94,990
1800-2	PUBLIC INFORMATION DIRECTOR II (BONUS N)	\$ 4,211.20	\$ 4,392.07	\$ 54.90	\$ 39.71	\$ 57,317	\$ 114,633

**WAGES AND COUNT
CIVILIAN 2006-2007**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	AVG BI-WEEKLY w/ July 2006 and January 2007 2% and 2.25% Increase	HOURLY RATE	INDIRECT ADMIN @ 72.33% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
1832-1	WRHSE & TOOL RM WRKR I	\$ 1,547.60	\$ 1,614.07	\$ 20.18	\$ 14.59	\$ 21,064	\$ 42,127
1832-2	WRHSE & TOOL RM WRKR II	\$ 1,668.80	\$ 1,740.47	\$ 21.76	\$ 15.74	\$ 22,713	\$ 45,426
1835-1	STOREKEEPER I	\$ 1,820.00	\$ 1,898.17	\$ 23.73	\$ 17.16	\$ 24,771	\$ 49,542
1835-2	STOREKEEPER II	\$ 1,774.40	\$ 1,774.40	\$ 22.18	\$ 16.04	\$ 23,156	\$ 46,312
1837-1	SR STOREKEEPER I	\$ 2,153.60	\$ 2,246.10	\$ 28.08	\$ 20.31	\$ 29,312	\$ 58,623
2200-1	FORENSIC PRINT SPECIALIST I	\$ 2,168.65	\$ 2,261.79	\$ 28.27	\$ 20.45	\$ 29,516	\$ 59,033
2200-2	FORENSIC PRINT SPECIALIST II	\$ 2,581.31	\$ 2,692.18	\$ 33.65	\$ 24.34	\$ 35,133	\$ 70,266
2200-3	FORENSIC PRINT SPECIALIST III	\$ 3,090.64	\$ 3,223.38	\$ 40.29	\$ 29.14	\$ 42,065	\$ 84,130
2200-4	FORENSIC PRINT SPECIALIST IV	\$ 3,256.64	\$ 3,396.51	\$ 42.46	\$ 30.71	\$ 44,324	\$ 88,649
2201	SR FORENSIC PR SPECIALIST	\$ 3,459.20	\$ 3,607.77	\$ 45.10	\$ 32.62	\$ 47,081	\$ 94,163
2202	POLICE SERVICE ASSISTANT	\$ 1,880.80	\$ 1,961.58	\$ 24.52	\$ 17.74	\$ 25,599	\$ 51,197
2203	PR FORENSIC PR SPECIALIST	\$ 3,834.40	\$ 3,999.09	\$ 49.99	\$ 36.16	\$ 52,188	\$ 104,376
2207-1	POLICE SERVICE REPRESENTATIVE	\$ 1,839.48	\$ 1,918.49	\$ 23.98	\$ 17.35	\$ 25,036	\$ 50,072
2207-2	POLICE SERVICE REPRESENTATIVE	\$ 2,215.06	\$ 2,310.20	\$ 28.88	\$ 20.89	\$ 30,148	\$ 60,296
2207-2B	POLICE SERVICE REPRESENTATIVE (BONUS B)	\$ 2,458.40	\$ 2,563.99	\$ 32.05	\$ 23.18	\$ 33,460	\$ 66,920
2207-2N	POLICE SERVICE REPRESENTATIVE (BONUS N)	\$ 2,388.69	\$ 2,491.28	\$ 31.14	\$ 22.52	\$ 32,511	\$ 65,023
2207-2R	POLICE SERVICE REPRESENTATIVE (BONUS R)	\$ 2,674.67	\$ 2,789.55	\$ 34.87	\$ 25.22	\$ 36,404	\$ 72,807
2207-3	POLICE SERVICE REPRESENTATIVE	\$ 2,770.68	\$ 2,889.68	\$ 36.12	\$ 26.13	\$ 37,710	\$ 75,441
2207-3N	POLICE SERVICE REPRESENTATIVE (BONUS N)	\$ 2,881.91	\$ 3,005.69	\$ 37.57	\$ 27.18	\$ 39,224	\$ 78,448
2207-3R	POLICE SERVICE REPRESENTATIVE (BONUS R)	\$ 2,958.76	\$ 3,085.84	\$ 38.57	\$ 27.90	\$ 40,270	\$ 80,540
2209-1	SR POLICE SERVICE REP I	\$ 2,884.16	\$ 3,008.03	\$ 37.60	\$ 27.20	\$ 39,255	\$ 78,510
2209-2	SR POLICE SERVICE REP II	\$ 3,112.44	\$ 3,246.12	\$ 40.58	\$ 29.35	\$ 42,362	\$ 84,724
2233	FIREARMS EXAMINER	\$ 3,559.60	\$ 3,712.48	\$ 46.41	\$ 33.57	\$ 48,448	\$ 96,896
2234-1	CRIMINALIST I	\$ 2,243.04	\$ 2,339.38	\$ 29.24	\$ 21.15	\$ 30,529	\$ 61,058
2234-2	CRIMINALIST II	\$ 3,418.15	\$ 3,564.96	\$ 44.56	\$ 32.23	\$ 46,523	\$ 93,045
2234-2W	CRIMINALIST II (BONUS W)	\$ 3,563.60	\$ 3,716.66	\$ 46.46	\$ 33.60	\$ 48,502	\$ 97,005
2234-3	CRIMINALIST III	\$ 3,680.98	\$ 3,839.08	\$ 47.99	\$ 34.71	\$ 50,100	\$ 100,200
2235	SUPERVISING CRIMINALIST	\$ 3,936.00	\$ 4,105.05	\$ 51.31	\$ 37.11	\$ 53,571	\$ 107,142
2235W	SUPERVISING CRIMINALIST (BONUS W)	\$ 4,269.60	\$ 4,452.98	\$ 55.66	\$ 40.26	\$ 58,111	\$ 116,223
2237-1	CHIEF FORENSIC CHEMIST I	\$ 4,289.60	\$ 4,473.84	\$ 55.92	\$ 40.45	\$ 58,384	\$ 116,767
2237-2	CHIEF FORENSIC CHEMIST II	\$ 4,852.80	\$ 5,061.23	\$ 63.27	\$ 45.76	\$ 66,049	\$ 132,098
2240-1	POLYGRAPH EXAMINER I	\$ 2,272.80	\$ 2,370.42	\$ 29.63	\$ 21.43	\$ 30,934	\$ 61,868
2240-2	POLYGRAPH EXAMINER II	\$ 2,949.44	\$ 3,076.12	\$ 38.45	\$ 27.81	\$ 40,143	\$ 80,287
2240-3	POLYGRAPH EXAMINER III	\$ 3,608.00	\$ 3,762.96	\$ 47.04	\$ 34.02	\$ 49,107	\$ 98,213
2240-4	POLYGRAPH EXAMINER IV	\$ 4,093.60	\$ 4,269.42	\$ 53.37	\$ 38.60	\$ 55,716	\$ 111,432
2262-A	DEPUTY CHIEF (BONUS Y)	\$ 7,089.60	\$ 7,394.10	\$ 92.43	\$ 66.85	\$ 96,493	\$ 192,986
2352	EQUESTRIAN FACILITY SUPERVISOR	\$ 2,154.40	\$ 2,246.93	\$ 28.09	\$ 20.32	\$ 29,322	\$ 58,645
2382-1	POLICE PSYCHOLOGIST I	\$ 3,799.75	\$ 3,962.95	\$ 49.54	\$ 35.83	\$ 51,716	\$ 103,433
2382-2	POLICE PSYCHOLOGIST II	\$ 4,440.80	\$ 4,631.53	\$ 57.89	\$ 41.87	\$ 60,441	\$ 120,883

**WAGES AND COUNT
CIVILIAN 2006-2007**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	AVG BI-WEEKLY w/ July 2006 and January 2007 2% and 2.25% Increase	HOURLY RATE	INDIRECT ADMIN @ 72.33% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
2383	POLICE TRAINING ADMINISTRATOR	\$ 4,399.20	\$ 4,588.15	\$ 57.35	\$ 41.48	\$ 59,875	\$ 119,751
2384	CHIEF POLICE PSYCHOLOGIST	\$ 4,950.40	\$ 5,163.02	\$ 64.54	\$ 46.68	\$ 67,377	\$ 134,755
3112	MAINTENANCE LABORER	\$ 1,518.40	\$ 1,563.82	\$ 19.80	\$ 14.32	\$ 20,666	\$ 41,332
3141	GARDENER CARETAKER	\$ 1,589.60	\$ 1,657.87	\$ 20.72	\$ 14.99	\$ 21,635	\$ 43,270
3143	SR GARDENER	\$ 1,784.00	\$ 1,860.62	\$ 23.26	\$ 16.82	\$ 24,281	\$ 48,562
3156	CUSTODIAL SERVICES ATTENDANT	\$ 1,252.00	\$ 1,305.77	\$ 16.32	\$ 11.81	\$ 17,040	\$ 34,081
3162-1	REPROGRAPHICS OPERATOR I	\$ 1,628.00	\$ 1,697.92	\$ 21.22	\$ 15.35	\$ 22,158	\$ 44,316
3181	SECURITY OFFICER	\$ 1,709.49	\$ 1,782.91	\$ 22.29	\$ 16.12	\$ 23,267	\$ 46,534
3181N	SECURITY OFFICER (BONUS N)	\$ 1,746.60	\$ 1,821.62	\$ 22.77	\$ 16.47	\$ 23,772	\$ 47,544
3207	PROPERTY OFFICER	\$ 1,802.65	\$ 1,880.07	\$ 23.50	\$ 17.00	\$ 24,535	\$ 49,070
3209	SR PROPERTY OFFICER	\$ 2,172.62	\$ 2,265.93	\$ 28.32	\$ 20.49	\$ 29,570	\$ 59,141
3210	PR PROPERTY OFFICER	\$ 2,397.87	\$ 2,500.86	\$ 31.26	\$ 22.61	\$ 32,636	\$ 65,272
3211	DETENTION OFFICER	\$ 1,936.39	\$ 2,019.56	\$ 25.24	\$ 18.26	\$ 26,355	\$ 52,710
3212	SR DETENTION OFFICER	\$ 2,210.75	\$ 2,305.70	\$ 28.82	\$ 20.85	\$ 30,089	\$ 60,179
3215	PR DETENTION OFFICER	\$ 2,531.49	\$ 2,640.22	\$ 33.00	\$ 23.87	\$ 34,455	\$ 68,910
3215R	PR DETENTION OFFICER (BONUS R)	\$ 2,690.40	\$ 2,805.95	\$ 35.07	\$ 25.37	\$ 36,618	\$ 73,235
3229-1	EXAM QUESTIONED DOCUMENTS I	\$ 1,960.00	\$ 2,044.18	\$ 25.55	\$ 18.48	\$ 26,677	\$ 53,353
3229-2	EXAM QUESTIONED DOCUMENTS II	\$ 3,371.60	\$ 3,516.41	\$ 43.96	\$ 31.79	\$ 45,889	\$ 91,778
3231	SR EXAM QUESTIONED DOCUMENTS	\$ 3,936.00	\$ 4,105.05	\$ 51.31	\$ 37.11	\$ 53,571	\$ 107,142
3333-1	BUILDING REPAIRER	\$ 1,784.00	\$ 1,860.62	\$ 23.26	\$ 16.82	\$ 24,281	\$ 48,562
3338	BUILDING REPAIR SUPERVISOR	\$ 2,947.20	\$ 3,073.78	\$ 38.42	\$ 27.79	\$ 40,113	\$ 80,226
3343	CABINET MAKER	\$ 2,328.80	\$ 2,428.82	\$ 30.36	\$ 21.96	\$ 31,696	\$ 63,392
3343	CARPENTER	\$ 2,328.80	\$ 2,428.82	\$ 30.36	\$ 21.96	\$ 31,696	\$ 63,392
3423	PAINTER	\$ 2,328.80	\$ 2,428.82	\$ 30.36	\$ 21.96	\$ 31,696	\$ 63,392
3443	PLUMBER	\$ 2,548.80	\$ 2,658.27	\$ 33.23	\$ 24.03	\$ 30,279	\$ 60,558
3531	GARAGE ATTENDANT	\$ 1,489.96	\$ 1,553.95	\$ 19.42	\$ 14.05	\$ 20,279	\$ 40,558
3583	TRUCK OPERATOR	\$ 1,784.00	\$ 1,860.62	\$ 23.26	\$ 16.82	\$ 24,281	\$ 48,562
3583	AUTOMOTIVE DISP I	\$ 1,656.80	\$ 1,727.96	\$ 21.60	\$ 15.62	\$ 22,550	\$ 45,100
3595-1	AUTOMOTIVE DISP II	\$ 1,986.40	\$ 2,071.72	\$ 25.90	\$ 18.73	\$ 27,036	\$ 54,072
3595-2	COMMUNICATIONS ELECTRICIAN	\$ 2,445.60	\$ 2,550.64	\$ 31.88	\$ 23.06	\$ 33,286	\$ 66,572
3687-1	POLICE SURVEILLANCE SPECIALIST I	\$ 2,642.97	\$ 2,756.49	\$ 34.46	\$ 24.92	\$ 35,972	\$ 71,944
3687-2	POLICE SURVEILLANCE SPECIALIST II	\$ 3,005.60	\$ 3,134.69	\$ 39.18	\$ 28.34	\$ 40,908	\$ 81,815
3704-5	AUTO BODY BUILDER/REPAIRER	\$ 2,290.09	\$ 2,388.45	\$ 29.86	\$ 21.59	\$ 31,169	\$ 62,339
3706-2	AUTO BODY REPAIR SUPERVISOR II	\$ 2,530.40	\$ 2,639.08	\$ 32.99	\$ 23.86	\$ 34,440	\$ 68,880
3706-F	AUTO BODY REPAIR SUPERVISOR	\$ 2,580.80	\$ 2,691.65	\$ 33.65	\$ 24.34	\$ 35,126	\$ 70,252
3707-5	AUTO ELECTRICIAN	\$ 2,228.80	\$ 2,324.53	\$ 29.06	\$ 21.02	\$ 30,335	\$ 60,670
3710-1	POLICE FLEET SERVICE SUPV I	\$ 2,305.60	\$ 2,404.63	\$ 30.06	\$ 21.74	\$ 31,380	\$ 62,761
3711-5	EQUIPMENT MECHANIC	\$ 2,254.99	\$ 2,351.84	\$ 29.40	\$ 21.26	\$ 30,692	\$ 61,383
3712-5	SR EQUIPMENT MECHANIC	\$ 2,374.48	\$ 2,476.46	\$ 30.96	\$ 22.39	\$ 32,318	\$ 64,636

**WAGES AND COUNT
CIVILIAN 2006-2007**

CLASS CODE	CLASS TITLE	AVG BI-WEEKLY SALARY	AVG BI-WEEKLY w/ July 2006 and January 2007 2% and 2.25% Increase	HOURLY RATE	INDIRECT ADMIN @ 72.33% (CAP 29)	SIX MONTH SALARY	ANNUAL SALARY
3714	AUTOMOTIVE SUPERVISOR	\$ 2,580.80	\$ 2,691.65	\$ 33.65	\$ 24.34	\$ 35,126	\$ 70,252
3716	SR AUTOMOTIVE SUPERVISOR	\$ 2,975.20	\$ 3,102.98	\$ 38.79	\$ 28.05	\$ 40,494	\$ 80,988
3718	GENERAL AUTOMOTIVE SUPERVISOR	\$ 3,420.80	\$ 3,567.72	\$ 44.60	\$ 32.26	\$ 46,559	\$ 93,118
3721-5	AUTO PAINTER	\$ 2,228.80	\$ 2,324.53	\$ 29.06	\$ 21.02	\$ 30,335	\$ 60,670
3722-2	DIRECTOR OF POLICE TRANSP II	\$ 4,440.80	\$ 4,631.53	\$ 57.89	\$ 41.87	\$ 60,441	\$ 120,883
3723-5	UPHOLSTERER	\$ 2,228.80	\$ 2,324.53	\$ 29.06	\$ 21.02	\$ 30,335	\$ 60,670
3771	MECHANICAL HELPER	\$ 1,677.60	\$ 1,749.65	\$ 21.87	\$ 15.82	\$ 22,833	\$ 45,666
3796	WELDER	\$ 2,356.80	\$ 2,458.02	\$ 30.73	\$ 22.22	\$ 32,077	\$ 64,154
3799	ELECTRICAL CRAFT HELPER	\$ 1,714.40	\$ 1,788.03	\$ 22.35	\$ 16.17	\$ 23,334	\$ 46,668
3863	ELECTRICIAN	\$ 2,445.60	\$ 2,550.64	\$ 31.88	\$ 23.06	\$ 33,286	\$ 66,572
4322	EQUINE KEEPER	\$ 1,715.20	\$ 1,788.87	\$ 22.36	\$ 16.17	\$ 23,345	\$ 46,689
6147	AUDIO VISUAL TECHNICIAN	\$ 2,365.60	\$ 2,467.20	\$ 30.84	\$ 22.31	\$ 32,197	\$ 64,394
6147B	AUDIO VISUAL TECHNICIAN (BONUS B)	\$ 2,284.53	\$ 2,382.65	\$ 29.78	\$ 21.54	\$ 31,094	\$ 62,187
6400	TRANSIT SECRETARY	\$ 1,985.60	\$ 2,070.88	\$ 25.89	\$ 18.72	\$ 27,025	\$ 54,050
6401	TRANSIT AIDE	\$ 1,960.00	\$ 2,044.18	\$ 25.55	\$ 18.48	\$ 26,677	\$ 53,353
6405	SR TRANSIT ANALYST	\$ 3,260.00	\$ 3,400.02	\$ 42.50	\$ 30.74	\$ 44,370	\$ 88,740
7204	CARTOGRAPHER	\$ 2,040.80	\$ 2,128.45	\$ 26.61	\$ 19.24	\$ 27,776	\$ 55,553
7213	GEOGRAPHIC INFORMATION SPECIALIST	\$ 2,329.60	\$ 2,429.66	\$ 30.37	\$ 21.97	\$ 31,707	\$ 63,414
7214-1	GEOGRAPHIC INFO SYSTEMS SUPERVISOR I	\$ 2,613.60	\$ 2,725.85	\$ 34.07	\$ 24.65	\$ 35,572	\$ 71,145
7607-2	COMMUNICATIONS ENGINEERING ASSOC. II	\$ 2,987.20	\$ 3,115.50	\$ 38.94	\$ 28.17	\$ 40,657	\$ 81,315
7610	COMMUNICATIONS ENGINEER (BONUS Y)	\$ 3,934.40	\$ 4,103.38	\$ 51.29	\$ 37.10	\$ 53,549	\$ 107,098
7854-1	LABORATORY TECHNICIAN I	\$ 1,683.20	\$ 1,755.49	\$ 21.94	\$ 15.87	\$ 22,909	\$ 45,818
7854-2	LABORATORY TECHNICIAN II	\$ 1,836.40	\$ 1,915.27	\$ 23.94	\$ 17.32	\$ 24,994	\$ 49,989
7922	ARCHITECT DRAFTING TECH	\$ 2,154.40	\$ 2,246.93	\$ 28.09	\$ 20.32	\$ 29,322	\$ 58,645
9167-1	SR PERSONNEL ANALYST I	\$ 3,261.60	\$ 3,401.69	\$ 42.52	\$ 30.76	\$ 44,392	\$ 88,784
9167-2	SR PERSONNEL ANALYST II	\$ 3,836.80	\$ 4,001.59	\$ 50.02	\$ 36.18	\$ 52,221	\$ 104,442
9171-1	SR MANAGEMENT ANALYST I	\$ 3,256.40	\$ 3,396.26	\$ 42.45	\$ 30.71	\$ 44,321	\$ 88,642
9171-2	SR MANAGEMENT ANALYST II	\$ 3,825.98	\$ 3,990.31	\$ 49.88	\$ 36.08	\$ 52,073	\$ 104,147
9184-1	MANAGEMENT ANALYST I	\$ 2,236.12	\$ 2,332.16	\$ 29.15	\$ 21.09	\$ 30,435	\$ 60,869
9184-2	MANAGEMENT ANALYST II	\$ 2,736.75	\$ 2,854.29	\$ 35.68	\$ 25.81	\$ 37,249	\$ 74,497
9186-1	POLICE ADMINISTRATOR I	\$ 4,823.64	\$ 5,030.82	\$ 62.89	\$ 45.48	\$ 65,652	\$ 131,304
9186-2	POLICE ADMINISTRATOR II	\$ 5,518.40	\$ 5,755.42	\$ 71.94	\$ 52.04	\$ 75,108	\$ 150,216
9186-3	POLICE ADMINISTRATOR III	\$ 6,374.00	\$ 6,647.76	\$ 83.10	\$ 60.10	\$ 86,753	\$ 173,507
9359	CHIEF OF POLICE	\$ 9,814.40	\$ 10,235.93	\$ 127.95	\$ 92.55	\$ 133,579	\$ 267,158
9374	CHIEF INFORMATION OFFICER	\$ 6,511.20	\$ 6,790.86	\$ 84.89	\$ 61.40	\$ 88,621	\$ 177,241
9375	DIRECTOR OF SYSTEMS	\$ 4,950.40	\$ 5,163.02	\$ 64.54	\$ 46.68	\$ 67,377	\$ 134,755
9734-2	COMMISSION EXECUTIVE ASSIST II (BONUS R)	\$ 2,759.20	\$ 2,877.71	\$ 35.97	\$ 26.02	\$ 37,554	\$ 75,108

COST ALLOCATION PLAN 29*
INDIRECT OR ADMINISTRATIVE COST FACTORS – POLICE DEPARTMENT
Effective 7/1/2006 through 6/30/2007

(COST ALLOCATION PLAN 29-APPROVED BY THE GOVERNMENT)

SWORN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Pension	24.54%
Flex Benefit Program	9.64
Employee Assistance	0.09
Medicare	1.13
Part Time/Seasonal/Temporary Pension.....	0.03
Unused Sick/Vacation Payout	1.30
Unemployment Claims	0.02
Workers' Compensation	6.81
Carry Forward, Positive	<u>0.02</u>
Total Fringe Benefits	43.58%
Department Administrative Rate	26.71%
General City Overhead	<u>18.16</u>
	44.87%
Total Sworn Overhead	88.45%

Department Field Support **27.49%**

Note: This indirect cost rate is added to the other rates, when the function or grant includes services provided by sworn employees assigned to the field, and is to be applied only to that portion of the function or grant. The rate represents five Department divisions that support field operations: Records and Identification, Scientific Investigation, Communications, Property and Jail.

CIVILIAN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Retirement	24.48%
Flex Benefit Program	10.07
Employee Assistance	0.02
Medicare	1.07
Union-Sponsored Benefits	0.33
Unused Sick/Vacation Payout	0.64
Unemployment Claims	0.12
Workers' Compensation	6.33
Carry Forward, Positive	<u>0.06</u>
Total Fringe Benefits	43.13%
Department Administrative Rate	15.19%
General City Overhead	<u>14.01</u>
	29.20%
Total Civilian Overhead	72.33%

NOTE: CAP rates are not applied to overtime charges. If extensive overtime is charged to a grant (more than 50% of straight-time charges), or for more information about applying CAP rates, call Fiscal Operations Division at (213) 485-3836.

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: September 13, 2007

MEMORANDUM NO. 07-028

TO: All City Office/Department Heads

FROM: Rushmore D. Cervantes, Chief Deputy Controller



**SUBJECT: 2006-07 INDIRECT COST RATES—COST ALLOCATION PLAN
(CAP) 29**

Attached are the approved Cost Allocation Plan (CAP) 29 indirect cost rates and instructions on their use. Please note that there are a number of changes from the interim rates distributed on September 13, 2006.

The rates were approved by the U.S. Department of Health and Human Services under contract with the City's cognizant federal agency, the U.S. Department of Housing and Urban Development. These rates must be used as follows: (a) for new billings on grant activities during fiscal year 2006-07 (you must adjust billings that were already made) and (b) to compute overhead charges, to be included with fees for special services, incurred in fiscal year 2006-07 but are going to be billed in fiscal year 2007-08.

Questions regarding the Cost Allocation Plan or indirect cost rates may be directed to the CAP staff, Lillian Sedlak at 978-7326, or Achilles Gonzales at 978-7327.

Attachments: A – Indirect Cost Rates
B – Instructions
C – Costs Included in Rate Calculations

COST ALLOCATION PLAN 29 (CAP 29) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2006-07. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
AGING:					
Balance of Department	38.60%	58.79%	na	*	25.55%
Title V	10.55%	2.97%	na	*	11.83%
ANIMAL SERVICES	49.07%	32.20%	50.09%	*	20.42%
BUILDING & SAFETY	38.34%	15.06%	18.14%	*	19.01%
CITY ADMINISTRATIVE OFFICER (OARS):					
CRA, Petroleum Admin., Proprietary, Capital Projects (Phy. Plant)	34.63%	43.26%	43.10%	*	18.55%
Disaster Grants Coordination	36.97%	186.65%	38.85%	*	18.55%
CITY ATTORNEY:					
Criminal	34.74%	13.64%	13.28%	*	24.64%
Direct Billed - User's Site (Proprietary Depts.)	31.82%	1.29%	8.65%	*	24.64%
Direct Billed - In City Space	39.41%	18.23%	17.12%	*	24.64%
CITY CLERK:					
Elections	6.92%	39.44%	13.77%	*	3.83%
Land Records	44.05%	52.41%	132.88%	*	16.58%
COMMISSION FOR CHILDREN, YOUTH AND THEIR FAMILIES	37.83%	126.00%	60.86%	*	21.67%
COMMISSION ON STATUS OF WOMEN	43.22%	91.28%	33.15%	*	29.88%
COMMUNITY DEVELOPMENT:					
Balance of Department	35.81%	13.65%	na	*	19.52%
As Needed Employees	8.64%	10.71%	na	*	n/a
CONTROLLER:					
Direct Billed (at User's site)	39.17%	5.59%	37.99%	*	19.97%
Direct Billed (in City space)	40.73%	67.26%	43.04%	*	19.97%
CULTURAL AFFAIRS	46.52%	77.37%	6.45%	*	18.04%
DEPARTMENT on DISABILITY	33.85%	39.85%	33.44%	*	17.11%
EL PUEBLO	34.50%	143.32%	488.31%	*	17.46%
EMERGENCY PREPAREDNESS DEPT					
Em. Prep. Policy & Public info.	38.06%	79.71%	58.39%	*	24.08%
ENVIRONMENTAL AFFAIRS:					
Policy/Public Information	39.04%	34.17%	25.48%	*	21.36%

COST ALLOCATION PLAN 29 (CAP 29) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2006-07. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
FINANCE, OFFICE OF Revenue Collections	38.13%	53.13%	13.62%	*	19.77%
FIRE:					
Civilian	39.43%	12.87%	12.36%	*	26.30%
Sworn (Firefighters)	42.78%	17.47%	19.72% a.	*	25.70%
Combined Dept. Admin. & Support Rate, including Field Support Rate			12.14% b.	Field Support Rate, Sworn only **	
			31.86% c.		
GENERAL SERVICES:					
Materials Testing	34.22%	28.35%	6.97%	*	19.04%
Print Shop	41.72%	42.25%	7.39%	*	20.10%
HOUSING:					
Grant-Funded Housing	33.04%	12.14%	na	*	18.34%
Enforcement	37.69%	10.49%	na	*	18.34%
Internal Administration	34.53%	26.60%	na	*	18.34%
HUMAN RELATIONS COMMISSION	35.68%	50.60%	24.58%	*	17.69%
LIBRARY	43.17%	17.06%	12.29%	*	18.12%
LOS ANGELES CONVENTION CENTER	41.61%	28.44%	32.21%	*	22.20%
MAYOR:					
Executive/Policy	35.82%	141.08%	65.90%	*	21.40%
Grant Funded/Spec. Programs	35.75%	157.60%	54.69%	*	17.03%
Direct in City Space	32.16%	94.27%	39.09%	*	21.40%
NEIGHBORHOOD EMPOWERMENT	35.45%	55.48%	45.92%	*	12.75%
PERSONNEL:					
Custody Care (Jails)	38.49%	16.90%	2.54%	*	19.95%
Personnel Grant Funded/Spec. Programs	37.03%	15.28%	0.00%	*	19.95%
PLANNING	36.10%	26.87%	23.04%	*	17.92%
POLICE:					
Civilian	43.13%	14.01%	15.19%	*	23.82%
Sworn	43.58%	18.16%	26.71% a.	*	26.20%
Combined Dept. Admin. & Support Rate, including Field Support Rate			27.49% b.	Field Support Rate, Sworn only **	
			54.20% c.		

****NOTE:** For Fire and Police, the Field Support rate (line b.) captures overhead costs that are in addition to other Administrative and Support Costs. It has been added to the Department Administration rate on this schedule. Please use this combined rate (line c.) for sworn positions in field operations. For other, non-field sworn positions, do NOT use the Field Support rate; use only the regular Department Administration rate (line a.), together with the other (Fringe, Central Service and CTO) rates.

COST ALLOCATION PLAN 29 (CAP 29) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and to compute Fees for Special Services, during 2006-07. They are to be applied only to straight time, gross salaries (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment B.

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	Division Overhead*	CTO
PUBLIC WORKS, Board Office:					
Public Services	49.30%	39.50%	6.82%	*	20.05%
PW - Contract Administration:					
Construction Inspection	36.09%	14.60%	12.52%	57.02%	17.74%
PW - Engineering:					
Stormwater Facilities Engineering	35.59%	11.63%	16.94%	48.03%	18.28%
Wastewater Facilities Engineering	35.21%	16.01%	17.05%	55.92%	18.28%
Privately Financed & Assessment	34.71%	25.07%	16.93%	5.15%	18.28%
Street Improvements	34.76%	16.53%	16.94%	59.91%	18.28%
Municipal Facilities	34.15%	1.11%	17.21%	28.39%	18.28%
General Mapping & Survey	36.62%	11.93%	16.84%	172.09%	18.28%
PW - Sanitation					
Solid Waste Program	40.05%	140.51%	8.12%	*	20.42%
Wastewater/Stormwater Division	39.58%	24.65%	6.66%	*	20.42%
PW - Street Lighting	38.04%	40.41%	24.47%	*	19.37%
PW - Street Services	44.70%	73.67%	19.80%	*	22.49%
Street Maint General					
Street Use Inspection					
Lot Cleaning					
Street Tree Division					
Street Maint Administration					
ST MNT Facilities Maintenance					
Street Maint Executive					
Resurf & Reconstr Div					
Special Proj Constr Div					
Street Improvement Div					
RECREATION & PARKS	60.17%	33.39%	14.14%	*	19.42%
TRANSPORTATION	44.60%	28.00%	8.10%	*	21.21%
TREASURER					
Cash Management & Street Bonds	37.04%	10.17%	103.44%	*	16.43%
Zoo Department	48.92%	20.56%	35.65%	*	27.37%

These ten Division Overhead rates, calculated by St. Services, assume that Equipment is billed as a direct cost. When such is done, the Central Services rate will be reduced to exclude the directly billed equipment.

Notes:

* Division Overhead includes costs of division heads, section supervisors, clerical and other support staff within divisions or sections. These costs are not part of the Department Administration rate, but are legitimate costs which should be recovered if allowed by your grantor. If these costs are not charged directly to a grant, a Division Overhead indirect cost rate should be calculated. To maintain consistency and insure that Division Overhead costs do not overlap with Department Administration costs, please contact CAP staff for assistance in calculating these rates. Public Works Division Overhead rates are computed by Public Works staff and published herein as a courtesy.

Instructions for Using Indirect Cost Rates

Modifying the rates. Usually departments use the CAP rates as published; however, situations may arise necessitating revision of the rates. **Your Department's CAP rate should be modified if your Department directly charges to a grant or fee payer any of the indirect costs, or if the grantor or fee payer directly provides any of the services listed on Attachment C.** For example, if you purchase a computer and the total cost is paid directly by a fee payer or grantor, your CAP rate must be reduced to avoid double billing for the directly charged item(s). This means: if the entity you are billing provides office space, telephone service, computers, vehicles, or any other item listed on Attachment C, your rates must be adjusted to exclude those items.

An example of the necessity for rate modification is the Police Department's bill to the Airports Department. Airports provides space, utilities, telephones and equipment for Police Department staff at the Airport substation. To properly bill the Airports Department for law enforcement services at this site, the Police Department indirect cost rates are revised to exclude the building use, building lease, equipment use, and telephone line items.

Contact the CAP Office for adjusted rates if any cost listed in Attachment C is directly billed to grants or fees, or if any of the listed services are provided by your client.

Using the rates as published. The CAP indirect cost rates are computed based on "gross annual salaries" **excluding** overtime. (For rates applicable to overtime salaries, please contact the CAP office.) Compensated time off (CTO) is included in this gross salaries base. (See Attachment C paragraph 5 for a definition of CTO.) The CAP Fringe Benefits, Central Services, and Department Administration indirect cost rates, therefore, must be applied to salaries which include CTO and exclude overtime. Please refer to the example below, where:

Fringe Benefits Rate	=	28.10%	of Gross Salaries
Central Services Rate	=	39.77%	of Gross Salaries
Department Administration & Support Rate	=	18.87%	of Gross Salaries
Compensated Time Off Rate	=	16.26%	of Net Salaries

1. Assume Gross Salaries = \$ 1,000.00 *(Gross Salaries are salaries for straight time worked plus Compensated Time Off.)*

Given the above-listed indirect cost rates, and assuming your CTO costs are included in your salaries as billed, total indirect costs are calculated below:

a.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost
b.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost
c.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost
Sum of (a + b + c) =								\$ 867.40

2. Assume Net Salaries = \$ 860.14 *(Net Salaries are salaries for straight time worked, not including Compensated Time Off. Such net salaries would typically be accumulated through direct charges in a cost accounting system.)*

Convert net salaries to gross salaries by adding CTO % of Net:

a.	Net Salary times CTO %:	\$	860.14	x	16.26%	=	\$	139.86	= CTO Amount
b.	Net Salary plus CTO amt:	\$	860.14	+	\$	139.86	=	\$	1,000.00 = Gross Salaries
c.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost	
d.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost	
e.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost	
Sum of (a + b + c) =								\$	867.40

REMINDER: CTO rates are to be used only when paid time off such as sick and vacation time are not directly charged to a special service or grant project. Please see Attachment C, paragraph 5 for further information.

COST ALLOCATION PLAN 29 INDIRECT COSTS INCLUDED IN RATE CALCULATIONS**1. Fringe Benefits Rate includes the department's share of the Citywide costs of:**

Retirement (Civilians)	Employee Assistance	Union Sponsored Benefits
Pensions (Fire/Police Sworn)	Ordinance Life Insurance	Unused Sick/Vacation Payout
FLEX Benefit Program	Medicare	Unemployment Insurance
- Health Insurance	Social Security	Workers' Compensation
- Dental Insurance	Part Time/Seasonal/Temporary	Hiring Hall Fringe
- Basic Life Insurance	(PST) 457 Retirement Plan	

2. Central Services Rate includes the department's share of the Citywide costs of:

Building Leases [GSD & Spec. Funds]	Equipment Use Allowance (Equipment costing \$5,000 & above)	General City Purposes [League Dues and audits]
Building Depreciation	Equipment Exp. Under \$5,000	Liability Claims
Computer Assets Depreciation (items costing \$5,000 & above)	(Equipment Costing under \$5,000)	Petroleum Products [GSD]
Communications Lease (Telephone bill)	Gas (Natural Gas Utility) [GSD]	Vehicle Depreciation
	Insurance on bond-financed assets	Water & Electricity
		Emergency Operations Organization
City Administrative Officer (CAO, formerly OARS)	COUNCIL & CLA	MAYOR
Budget		Department Liaison & Grants Citywide Coordinator
Employee Relations	EMPLOYEE RELATIONS BOARD	
Gen. Support (Finance, Systems, Productivity & Risk Management)		PERSONNEL
Dept Liaison/ Mgt. Analysis	ENVIRONMENTAL AFFAIRS	Workers' Compensation & Safety
Municipal Facilities Projects	Environmental Coordination	Personnel Balance of Dept.
CITY ATTORNEY	EMERGENCY PREPAREDNESS	PUBLIC WORKS
Civil Liability	Emergency Preparedness Coordination	Board Office
Employee Relations		Contract Admin:
Municipal Counsel / Legis. Svcs.		Office of Contract Compliance
Land Use	FINANCE	Engineering: General Engineering
Police Division	Citywide Collections	
CITY CLERK	GENERAL SERVICES	TREASURER
Council and Public Services	Building Services	Custody & Disbursement & Debt Administration
Records Management	Construction Division	
	Fleet Services	
	Assets Management (Leasing & Real Estate)	PENSIONS: OVERHEADS ALLOCATED
CITY ETHICS COMMISSION	Mail & Messenger	
	Parking Services	TO PENSIONS. (Other Pension costs included in Fringe Benefits)
CONTROLLER	Supply Services	
Accounts Payable		
Budget & General Acctg.		CERS: OVERHEADS ALLOCATED
CAP	INFORMATION TECHNOLOGY	
FMIS	AGENCY (ITA)	TO CERS. (Other CERS costs included in Fringe Benefits)
Internal Audit	IT Services	
Payroll (incl. Fiscal Systems)	Communications Division	
Single Audit	Telecommunications (PPEB)	
Workers' Compensation		

INDIRECT COSTS INCLUDED IN CAP 29 RATE CALCULATIONS (continued)**3. Department Administration and Support Rate includes costs of support functions within a department:**

The rate includes expenditures which: --- *benefit the department as a whole*
 --- *are NOT directly charged to a grant or fee program*
 --- *are NOT line operations.*

Expenditures include those of:

Accounting staff	Department Management (Gen. Mgr. & Asst. Gen. Mgrs)
Budget staff	Clerical Staff/word processing staff serving the entire department.
Payroll staff	Systems Staff (if serving the whole department, not a special project)
Personnel & training staff	Warehouse/inventory/stores staff
Inventory staff	Vehicle maintenance staff (Police & Fire only)

NOTE: The support costs discussed here must conform to Federal definitions of allowable overhead costs and are not necessarily the same as the City's General Administration and Support Program (GASP) in a departmental budget.

4. Division Overhead Rates include the costs of support functions within divisions:

The rate includes the salary and expenses of division heads, section supervisors, and other support within divisions which are not included in the Department Administration costs discussed above. For example, within the Bureau of Engineering, the City Engineer, Deputies, their secretaries and the Administration Division are included in the Department Administration indirect cost rate. Within operating divisions, division heads, assistant division heads, and their secretaries and division support staff are NOT included in the Department Administration rate.

To recover the overhead costs within a division, a department or bureau should directly charge the time of the division head, secretary, assistant division head, and other division support services to a project, or calculate an indirect cost rate to recover their costs. Please work with the CAP office when calculating such rates, to insure that Division Overhead costs do not overlap Department Administration costs.

5. Compensated Time Off Rate includes the salary paid to employees who are on paid leave such as:

Sick Leave	Jury Duty	Floating Holiday
Vacation	Bereavement leave	Injury on Duty
Holiday	Preventive Medicine	
Military Leave	Workers' Compensation (salary continuance	
Family Illness	paid by the employing department.)	

Special Note regarding CTO:

CTO rates are to be used only when sick, vacation, and other CTO hours are not directly charged to a fee or grant project. For employees who charge only part of their hours worked to a grant, their time off is usually not being charged to the project, so the cost of that time off must be recovered using the CTO Rate. For employees whose entire annual salary is charged to a fee or grant, CTO is recovered as they take their time off, and the CTO Rate is not to be used. When the CTO Rate is applied to net salaries, the amount derived is added to net salaries to create gross salaries. The derived gross salaries becomes the base against which the fringe benefit rate and other indirect cost rates described above are applied.

6. OTHER DEFINITIONS

- Gross Salaries - Total annual salaries, which include pay for time worked AND compensated time off.
- Net Salaries - Pay for time worked only, not including compensated time off.

CLIENT

State Controller's Office

Mandated Cost Manual

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS			For State Controller Use Only (19) Program Number 00187 (20) Date Filed ___/___/___ (21) LRSInput ___/___/___		Program 187
(01) Claimant Identification Number 9819487			Reimbursement Claim Data		
(02) Claimant Name City of Los Angeles			(22)	PPBR-1,(03)(a)	4,200
County of Location Los Angeles			(23)	PPBR-1,(03)(b)	6,125
Street Address or P.O. Box Suite 150 N. Los Angeles Street Room 712			(24)	PPBR-1,(03)(c)	7,052
City State Zip Code Los Angeles CA 90012			(25)	PPBR-1,(03)(d)	3,717
Type of Claim	Estimated Claim	Reimbursement Claim	(26)	PPBR-1,(04)(1)(e)	777,061
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27)	PPBR-1,(04)(2)(e)	0
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28)	PPBR-1,(04)(3)(e)	3,536,170
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29)	PPBR-1,(04)(4)(e)	5,571,581
Fiscal Year of Cost	(06)	(12)	(30)	PPBR-1,(06)	44.87, 29.2
		2007-2008			
Total Claimed Amount	(07)	(13)	(31)	PPBR-1,(07)	3,718,353
		\$13,603,163			
LESS: 10% Late Penalty, not to exceed \$1,000		(14)	(32)	PPBR-1,(09)	0
LESS: Estimated Claim Payment Received		(15)	(33)	PPBR-1,(10)	0
Net Claimed Amount		(16)	(34)		
		\$13,603,163			
Due from State	(08)	(17)	(35)		
		\$13,603,163			
Due to State		(18)	(36)		
(37) CERTIFICATION OF CLAIM In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under the penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 through 1098, inclusive. I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant. The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <div style="display: flex; justify-content: space-between;"> <div> Signature of Authorized Officer <hr/> Laura Filatoff <small>Print or type name</small> </div> <div> Date <hr/> Commanding Officer, FOD <small>Title</small> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> (38) Name of Contact Person for Claim <hr/> Graciela Valero </div> <div> Telephone Number (916) 669-3583 </div> <div> E-mail Address gracielavalero@maximus.com </div> </div>					

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY	FORM PPBR-1			
(01) Claimant: City of Los Angeles		(02) Fiscal year costs were incurred: 2007-2008			
Claim Statistics					
(03)	(a) Number of cases in process at the beginning of the fiscal year	4200			
	(b) Number of new cases added during the fiscal year	6126			
	(c) Number of cases completed or closed during the fiscal year	7052			
	(d) Number of cases in process at the end of the year	3717			
Direct Costs					
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Travel and Training	(e) Total
1. Administrative Activities	\$529,559	\$247,501			\$777,061
2. Administrative Appeal					
3. Interrogations	\$2,395,617	\$1,140,553			\$3,536,170
4. Adverse Comment	\$3,774,784	\$1,796,797			\$5,571,581
(05) Total Direct Costs	\$6,699,959	\$3,184,852			\$9,884,811
Indirect Costs					
(06) Indirect Cost Rate (From ICRP)	Salary and Wages				See Summary
(07) Indirect Costs	[Line (06) x Line (05)(a)]				\$3,718,353
(08) Total Direct and Indirect Costs	[Line (05)(e) + Line (07)]				\$13,603,163
Cost Reductions					
(09) Less Offsetting Savings, if applicable					
(10) Less Other Reimbursements, if applicable					
(11) Total Claimed Amount:	{Line(08)- [Line (09) + Line(10)]}				\$13,603,163

Revised 09/03

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2		
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2007-2008					
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.									
<input checked="checked" type="checkbox"/> Administrative Activities				<input type="checkbox"/> Administrative Appeal					
<input type="checkbox"/> Interrogations				<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)							Object Accounts		
(a) Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Benefit Rate	(d) Hours Worked / Quantity	(e) Services and Supplies	(f) Travel and Training	(g)			
						Salaries	Benefits	Total Sal. & Bens	
The Los Angeles Police Department conducted a time study used in this claim. The following staff spent time performing Administrative Activities related to the POBAR process. This includes updating the status of the POBAR cases.									
Captain II	\$82.37	47.6%	735.12			\$60,552	\$28,829	\$89,381	
Captain III	\$86.45	47.6%	1041.42			\$90,031	\$42,864	\$132,894	
Lieutenant	\$73.53	47.6%	122.52			\$9,009	\$4,289	\$13,298	
Lieutenant II	\$74.90	47.6%	183.78			\$13,765	\$6,554	\$20,319	
Sergeant I	\$62.48	47.6%	306.30			\$19,138	\$9,111	\$28,249	
Sergeant II	\$67.04	47.6%	735.12			\$49,282	\$23,463	\$72,746	
Detective II	\$61.65	47.6%	1347.72			\$83,087	\$39,558	\$122,645	
Detective III	\$64.73	47.6%	1960.32			\$126,892	\$60,413	\$187,305	
Sr. Clerk Typist**	\$28.66	41.7%	796.38			\$22,824	\$9,511	\$32,335	
Clerk Typist**	\$22.86	41.7%	735.12			\$16,805	\$7,003	\$23,807	
Principal Clerk Police II**	\$34.62	41.7%	1102.68			\$38,175	\$15,907	\$54,082	
Total Cases			6126						
<i>**See attached Indirect Cost breakdown for Civilian and Sworn employees</i>									
<i>Please see attached FTE calculations.</i>									
Civilian 1663 hours Sworn 1665 hours									
<i>The agency named above has made every effort not to include costs relating to the "Skelly Process".</i>									
(05) Total (X) Subtotal ()						\$529,559	\$247,501	\$777,061	

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL						FORM PPBR-2		
(01) Claimant: City of Los Angeles				(02) Fiscal year costs were incurred: 2007-2008					
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.									
<input type="checkbox"/> Administrative Activities				<input type="checkbox"/> Administrative Appeal					
<input checked="" type="checkbox"/> Interrogations				<input type="checkbox"/> Adverse Comment					
(04) Description of Expense: Complete columns (a) through (g)									
(a)	(b)	(c)	(d)	(e)	(f)	(g)			
Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	Hourly Rate or Unit Cost	Benefit Rate	Hours Worked / Quantity	Services and Supplies	Travel and Training	Salaries	Benefits	Total Sal. & Bene	
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The following staff spent time providing prior notice to the peace officer under investigation regarding the nature of the interrogation. This includes reviewing the complaints to prepare the notice of interrogation, determining the investigating officers, prep. of notice, and presentation of complaint to the peace officer.									
Detective I	\$57.40	47.6%	4159.55			\$238,758	\$113,673	\$352,431	
Detective II	\$61.65	47.6%	4594.50			\$283,251	\$134,856	\$418,107	
Detective III	\$64.73	47.6%	3871.63			\$250,611	\$119,316	\$369,927	
Sergeant I	\$62.48	47.6%	4422.97			\$276,347	\$131,569	\$407,916	
Sergeant II	\$67.04	47.6%	5127.46			\$343,745	\$163,657	\$507,402	
Lieutenant II	\$74.90	47.6%	6199.51			\$464,343	\$221,074	\$685,417	
Total Cases	6126								
The following staff represents witness and subject time spent in interrogations.									
Peace Officer II - Witness .41/hr per case (23%)	\$53.65	47.6%	2511.66			\$134,751	\$64,155	\$198,905	
Peace Officer II -Subject - 1.375/hr per case (77%)	\$53.65	47.6%	7526.75			\$403,810	\$192,254	\$596,064	
<i>1.786/hr is the total interrogation time spent by the witness or subject officer on the phone or in person. 77% of this time is spent on the subject, 23% on the witness. On average 21% of the cases result in discipline. Since the interrogation of a subject officer who is disciplined is not eligible, the subject officer claimed time for only 79% of the cases, or 5474 cases.</i>									
<u>Please see attached FTE calculations.</u>									
Civilian 1663 hours Sworn 1665 hours									
The agency named above has made every effort not to include costs relating to the "Skelly Process".									
(05) Total (X) Subtotal ()						\$2,395,617	\$1,140,553	\$3,536,170	

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT / ACTIVITY COST DETAIL	FORM PPBR-2						
(01) Claimant: City of Los Angeles		(02) Fiscal year costs were incurred: 2007-2008						
(03) Reimbursable Components: Check <u>ONLY</u> one box per form to identify the component being claimed.								
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Administrative Activities <input type="checkbox"/> Interrogations </div> <div> <input type="checkbox"/> Administrative Appeal <input checked="" type="checkbox"/> Adverse Comment </div> </div>								
(04) Description of Expense: Complete columns (a) through (g)								
(a)	(b)	(c)	(d)	(e)	(f)	(g)		
Employee Name, Job Classification, Functions Performed and Description of Services and Supplies	Hourly Rate or Unit Cost	Benefit Rate	Hours Worked / Quantity	Services and Supplies	Travel and Training	Salaries	Benefits	Total Sal. & Bens
The Los Angeles Police Department conducted a time study used in this claim. <i>Please see attached</i> The above individuals spent time reviewing the circumstances or documentation leading to an adverse comment, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to the officer and notification concerning rights regarding the same; review of response and attaching same to adverse comment.								
Lieutenant I	\$73.53	47.6%	4104.42			\$301,798	\$143,656	\$445,454
Lieutenant II	\$74.90	47.6%	5697.18			\$426,719	\$203,118	\$629,837
Captain I	\$73.00	47.6%	2756.70			\$201,239	\$95,790	\$297,029
Captain II	\$82.37	47.6%	3981.90			\$327,989	\$156,123	\$484,112
Captain III	\$86.45	47.6%	3491.82			\$301,868	\$143,689	\$445,557
Sergeant I	\$62.48	47.6%	12435.78			\$776,988	\$369,846	\$1,146,834
Sergeant II	\$67.04	47.6%	4104.42			\$275,160	\$130,978	\$406,137
Detective I	\$57.40	47.6%	306.30			\$17,582	\$8,369	\$25,950
Detective II	\$61.65	47.6%	5697.18			\$351,231	\$167,186	\$518,417
Detective III	\$64.73	47.6%	4471.98			\$289,471	\$137,788	\$427,260
Police Officer II	\$53.65	47.6%	1837.80			\$98,598	\$46,933	\$145,531
Clerk Typist**	\$22.86	47.6%	306.30			\$7,002	\$3,333	\$10,335
Sr. Clerk Typist**	\$28.66	47.6%	2327.88			\$66,717	\$31,757	\$98,474
Police Service Representative**	\$34.63	47.6%	2266.62			\$78,493	\$37,363	\$115,856
Management Analyst II**	\$41.42	47.6%	4594.50			\$190,304	\$90,585	\$280,889
Principal Clerk Police II**	\$34.62	47.6%	1837.80			\$63,625	\$30,285	\$93,910
Total Cases	6126					\$3,774,784	\$1,796,797	\$5,571,581
<i>**See attached Indirect Cost breakdown for Civilian and Sworn employees</i> <i>Please see attached FTE calculations.</i> Civilian 1663 hours Sworn 1665 hours								
<i>The agency named above has made every effort not to include costs relating to the "Skelly Process".</i>								
(05) Total (X) Subtotal ()				Page: ____ of ____		\$3,774,784	\$1,796,797	\$5,571,581

FORM
ICRP Summary

2006-2007

- By Department -

ICRP attachment to RVC multi rate claim

LAPD - Salary Info. for 07-08 Claims

<u>Title</u>	<u>Avg Annual Salary</u>	<u>PHR</u>
Police Officer I	\$ 57,573.00	\$ 31.99
Police Officer II	\$ 96,565.50	\$ 53.65
Police Officer III	\$ 100,001.82	\$ 55.56
Average Rate	\$ 84,713	\$ 47.06
Clerk Typist	\$ 41,145.00	\$ 22.86
Sr. Clerk Typist	\$ 51,588.00	\$ 28.66
Mgmt Analyst II	\$ 74,556.00	\$ 41.42
Police Svc Rep	\$ 62,331.00	\$ 34.63
Principal Clerk Police II	\$ 62,309.00	\$ 34.62
Police Detective I	\$ 103,327.67	\$ 57.40
Police Detective II	\$ 110,973.50	\$ 61.65
Police Detective III	\$ 116,507.00	\$ 64.73
Police Captain I	\$ 131,407.00	\$ 73.00
Police Captain II	\$ 148,267.00	\$ 82.37
Police Captain III	\$ 155,616.00	\$ 86.45
Police Sergeant I	\$ 112,462.00	\$ 62.48
Police Sergeant II	\$ 120,664.33	\$ 67.04
Police Lieutenant I	\$ 132,349.83	\$ 73.53
Police Lieutenant II	\$ 134,819.33	\$ 74.90

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2007-2008 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	06-07 AVG. SALARY	AVG BI-WKLY SALARY 07/08 Including 3.5% COLA	HOURLY RATE	IND. FIELD @ 130.77% (CAP 30)	IND. ADMIN @ 104.89% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY	07/08 Incremental Cost to a PO II 6-month Salary
2223-3	POLICE DETECTIVE III		\$4,196.23	4,343.10	54.29	70.99	56.83	56,677	113,355	\$ 16,745
2223-3L	POLICE DETECTIVE III	L	\$4,429.60	4,584.64	57.31	74.94	60.00	59,829	119,659	\$ 19,897
2227-1	POLICE SERGEANT I		\$3,780.28	3,912.59	48.91	63.96	51.20	51,059	102,119	\$ 11,127
2227-1M	POLICE SERGEANT I	M	\$4,304.77	4,455.44	55.69	72.83	58.30	58,143	116,287	\$ 18,211
2227-1T	POLICE SERGEANT I	T	\$4,404.48	4,558.64	56.98	74.52	59.66	59,490	118,980	\$ 19,558
2227-2	POLICE SERGEANT II		\$4,013.67	4,154.15	51.93	67.90	54.36	54,212	108,423	\$ 14,280
2227-2G	POLICE SERGEANT II	G	\$4,788.80	4,956.41	61.96	81.02	64.86	64,681	129,362	\$ 24,749
2227-2K	POLICE SERGEANT II	K	\$4,630.40	4,792.46	59.91	78.34	62.72	62,542	125,083	\$ 22,610
2227-2S	POLICE SERGEANT II	S	\$4,542.40	4,701.38	58.77	76.85	61.52	61,353	122,706	\$ 21,421
2227-2T	POLICE SERGEANT II	T	\$4,308.37	4,459.16	55.74	72.89	58.35	58,192	116,384	\$ 18,260
2227-2X	POLICE SERGEANT II	X	\$4,517.31	4,675.42	58.44	76.43	61.18	61,014	122,028	\$ 21,082
2232-1	POLICE LIEUTENANT I		\$4,433.51	4,588.68	57.36	75.01	60.05	59,882	119,765	\$ 19,950
2232-1Q	POLICE LIEUTENANT I	Q	\$4,933.60	5,106.28	63.83	83.47	66.82	66,637	133,274	\$ 26,705
2232-1Y	POLICE LIEUTENANT I	Y	\$5,056.80	5,233.79	65.42	85.55	68.49	68,301	136,602	\$ 28,369
2232-2	POLICE LIEUTENANT II		\$4,698.82	4,863.28	60.79	79.50	63.64	63,466	126,932	\$ 23,534
2232-2G	POLICE LIEUTENANT II	G	\$5,065.60	5,242.90	65.54	85.70	68.61	68,420	136,840	\$ 28,488
2232-2Y	POLICE LIEUTENANT II	Y	\$5,208.00	5,390.28	67.38	88.11	70.54	70,343	140,686	\$ 30,411
2244-1	POLICE CAPTAIN I		\$4,864.48	5,034.74	62.93	82.30	65.89	65,703	131,407	\$ 25,771
2244-2	POLICE CAPTAIN II		\$5,488.62	5,680.72	71.01	92.86	74.34	74,133	148,267	\$ 34,201
2244-3	POLICE CAPTAIN III		\$5,760.67	5,962.29	74.53	97.46	78.02	77,808	155,616	\$ 37,876
2251	POLICE COMMANDER		\$6,376.85	6,600.04	82.50	107.89	86.37	86,131	172,261	\$ 46,100
2251-Y	POLICE COMMANDER	Y	\$6,783.20	7,020.61	87.76	114.76	91.87	91,619	183,238	\$ 51,600
2262-1	POLICE DEPUTY CHIEF I		\$6,973.50	7,217.57	90.22	117.98	94.45	94,189	188,379	\$ 54,257
2262-1Y	POLICE DEPUTY CHIEF I	Y	\$7,089.60	7,337.74	91.72	119.94	96.02	95,757	191,515	\$ 55,825
2262-2	POLICE DEPUTY CHIEF II		\$7,684.80	7,953.77	99.42	130.01	104.08	103,797	207,593	\$ 63,865

**WAGES AND COUNT
CIVILIAN 2007-2008**

CLASS CODE	CLASS TITLE	FY06-07 AVG BI-WEEKLY SALARY	AVG BI-WEEKLY Including Jan 2007 2.25% COLA (COLA pending for FY 07-08)	HOURLY RATE	INDIRECT ADMIN @ 76.85% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY
1793-1	PHOTOGRAPHER I	\$ 1,775.20	\$ 1,815.14	\$ 22.69	\$ 17.44	\$ 23,688	\$ 47,375
1793-2	PHOTOGRAPHER II	\$ 2,474.40	\$ 2,530.07	\$ 31.63	\$ 24.30	\$ 33,017	\$ 66,035
1793-3	PHOTOGRAPHER III	\$ 2,566.30	\$ 2,624.04	\$ 32.80	\$ 25.21	\$ 34,244	\$ 68,487
1793-3Y	PHOTOGRAPHER III (BONUS Y)	\$ 2,558.90	\$ 2,616.48	\$ 32.71	\$ 25.13	\$ 34,145	\$ 68,290
1794	PRINCIPAL PHOTOGRAPHER	\$ 3,346.40	\$ 3,421.69	\$ 42.77	\$ 32.87	\$ 44,653	\$ 89,306
1795-1	SR PHOTOGRAPHER I	\$ 2,708.00	\$ 2,788.93	\$ 34.61	\$ 26.60	\$ 36,135	\$ 72,269
1795-2	SR PHOTOGRAPHER II	\$ 2,921.80	\$ 2,987.54	\$ 37.34	\$ 28.70	\$ 38,987	\$ 77,975
1800-1	PUBLIC INFORMATION DIRECTOR I	\$ 3,559.20	\$ 3,639.28	\$ 45.49	\$ 34.96	\$ 47,493	\$ 94,985
1800-2	PUBLIC INFORMATION DIRECTOR II (BONUS B)	\$ 4,920.00	\$ 5,030.70	\$ 62.88	\$ 48.33	\$ 65,651	\$ 131,301
1832-1	WRHSE & TOOL RM WRKR I	\$ 1,621.60	\$ 1,658.09	\$ 20.73	\$ 15.93	\$ 21,638	\$ 43,276
1832-2	WRHSE & TOOL RM WRKR II	\$ 1,702.40	\$ 1,740.70	\$ 21.76	\$ 16.72	\$ 22,716	\$ 45,432
1835-1	STOREKEEPER I	\$ 1,820.00	\$ 1,860.95	\$ 23.26	\$ 17.88	\$ 24,285	\$ 48,571
1835-2	STOREKEEPER II	\$ 1,902.40	\$ 1,945.20	\$ 24.32	\$ 18.69	\$ 25,385	\$ 50,770
1837	SR STOREKEEPER	\$ 2,186.80	\$ 2,246.23	\$ 28.08	\$ 21.58	\$ 29,313	\$ 58,627
2200-1	FORENSIC PRINT SPECIALIST I	\$ 2,319.64	\$ 2,371.83	\$ 29.65	\$ 22.78	\$ 30,852	\$ 61,905
2200-2	FORENSIC PRINT SPECIALIST II	\$ 2,694.49	\$ 2,755.12	\$ 34.44	\$ 26.47	\$ 35,954	\$ 71,909
2200-3	FORENSIC PRINT SPECIALIST III	\$ 3,206.83	\$ 3,279.09	\$ 40.99	\$ 31.50	\$ 42,792	\$ 85,584
2200-4	FORENSIC PRINT SPECIALIST IV	\$ 3,408.91	\$ 3,485.61	\$ 43.57	\$ 33.48	\$ 45,487	\$ 90,974
2201	SR FORENSIC PR SPECIALIST	\$ 3,799.20	\$ 3,884.68	\$ 48.56	\$ 37.32	\$ 50,695	\$ 101,390
2202	POLICE SERVICE ASSISTANT	\$ 1,801.60	\$ 1,842.14	\$ 23.03	\$ 17.70	\$ 24,040	\$ 48,080
2203	PR FORENSIC PR SPECIALIST	\$ 3,990.40	\$ 4,080.18	\$ 51.00	\$ 39.20	\$ 53,246	\$ 106,493
2207-1	POLICE SERVICE REPRESENTATIVE I	\$ 1,904.48	\$ 1,947.33	\$ 24.34	\$ 18.71	\$ 25,413	\$ 50,825
2207-2	POLICE SERVICE REPRESENTATIVE II	\$ 2,335.60	\$ 2,388.15	\$ 29.85	\$ 22.94	\$ 31,165	\$ 62,331
2207-2B	POLICE SERVICE REPRESENTATIVE II (BONUS B)	\$ 2,698.40	\$ 2,759.11	\$ 34.49	\$ 26.50	\$ 36,006	\$ 72,013
2207-2N	POLICE SERVICE REPRESENTATIVE II (BONUS N)	\$ 2,514.06	\$ 2,570.63	\$ 32.13	\$ 24.69	\$ 33,547	\$ 67,093
2207-2R	POLICE SERVICE REPRESENTATIVE II (BONUS R)	\$ 2,752.40	\$ 2,814.33	\$ 35.18	\$ 27.04	\$ 36,727	\$ 73,454
2207-3	POLICE SERVICE REPRESENTATIVE III	\$ 2,902.61	\$ 2,967.92	\$ 37.10	\$ 28.51	\$ 38,731	\$ 77,463
2207-3B	POLICE SERVICE REPRESENTATIVE III (BONUS B)	\$ 3,090.40	\$ 3,159.93	\$ 39.50	\$ 30.36	\$ 41,237	\$ 82,474
2207-3N	POLICE SERVICE REPRESENTATIVE III (BONUS N)	\$ 3,141.27	\$ 3,211.95	\$ 40.15	\$ 30.85	\$ 41,916	\$ 83,832
2207-3R	POLICE SERVICE REPRESENTATIVE III (BONUS R)	\$ 3,186.40	\$ 3,258.09	\$ 40.73	\$ 31.30	\$ 42,518	\$ 85,036
2209-1	SR POLICE SERVICE REP I	\$ 3,006.79	\$ 3,074.44	\$ 38.43	\$ 29.53	\$ 40,121	\$ 80,243
2209-1R	SR POLICE SERVICE REP I (BONUS R)	\$ 3,266.40	\$ 3,339.89	\$ 41.75	\$ 32.08	\$ 43,586	\$ 87,171
2209-2	SR POLICE SERVICE REP II	\$ 3,256.00	\$ 3,329.26	\$ 41.62	\$ 31.98	\$ 43,447	\$ 86,894
2210	COMMUNITY POLICE AIDE	\$ 1,044.80	\$ 1,068.31	\$ 13.35	\$ 10.26	\$ 13,941	\$ 27,883
2233	FIREARMS EXAMINER	\$ 3,502.93	\$ 3,581.75	\$ 44.77	\$ 34.41	\$ 46,742	\$ 93,484
2234-1	CRIMINALIST I	\$ 2,450.31	\$ 2,505.44	\$ 31.32	\$ 24.07	\$ 32,696	\$ 65,392
2234-2	CRIMINALIST II	\$ 3,805.60	\$ 3,891.23	\$ 45.81	\$ 35.21	\$ 47,828	\$ 95,655
2234-2W	CRIMINALIST II (BONUS W)	\$ 3,846.56	\$ 3,933.11	\$ 48.64	\$ 37.38	\$ 50,780	\$ 101,561
2234-3	CRIMINALIST III	\$ 4,127.77	\$ 4,220.64	\$ 52.76	\$ 40.54	\$ 55,079	\$ 110,159
2235	SUPERVISING CRIMINALIST						

1/5/2008



PEACE OFFICERS' PROCEDURAL BILL OF RIGHTS (POBAR)

State Mandate Reimbursement (SB 90) Activity Log

City: Los Angeles

Fiscal Year: 2007-2008 (July 1, 2007 to June 30, 2008)

Do not include costs or time related to the "Skelly Process."

CLAIM STATISTICS

Number of cases in process at beginning of the fiscal year?	4,200 (Estimate)
Number of new cases added during the fiscal year?	6,126
Number of cases completed or closed during the fiscal year?	7,052
Number of cases in process at the end of the fiscal year?	3,717

ADMINISTRATIVE

Activities	Name (s)	Title	Time Spent
Developing or updating internal policies, procedures, manuals or other material relating to the Rights of Public Safety Officers?	Use information from time-study.		
Attending specific training related to the Rights of Public Safety Officers? (Human Resources, Law Enforcement, Legal Counsel, etc.)			
Describe type of training, dates, employee name, classification, hours to attend, and any other reimbursable costs. (i.e., Hotel, mileage, registration fee)-Include invoice(s) if applicable.			
Updating the status of the POBAR case records.			

ADMINISTRATIVE APPEAL- Time for the preparation and review of various documents to commence and proceed with the administrative hearing: legal review and assistance with conduct of the hearing; preparation and service of subpoenas, witness fees and salaries of employee witnesses, including overtime; the time and labor of the administrative body and their clerical services; preparation and service of any ruling or order.

Activities	Name (s)	Title	Time Spent
Providing and conducting an administrative appeal for the <u>dismissal, suspension, demotion, salary reduction or written reprimand</u> received by the Chief of Police where his reputation or ability to find future employment is not affected.	Use information from time-study.		



PEACE OFFICERS' PROCEDURAL BILL OF RIGHTS (POBAR)

State Mandate Reimbursement (SB 90) Activity Log

City: Los Angeles

Fiscal Year: 2007-2008 (July 1, 2007 to June 30, 2008)

ADMINISTRATIVE APPEAL - CONT.

Providing and conducting an administrative appeal for the transfer of a peace officer for the purpose of punishment.

Providing and conducting an administrative appeal for the denial of a promotion for reasons other than merit.

Providing and conducting an administrative appeal that results from 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.

Use information from time-study.

INTERROGATIONS

Activities	Name (s)	Title	Time Spent
Conducting an interrogation of a peace officer who is under investigation or becomes a witness to an incident under investigation that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.			

Use information from time-study.

Activities	Name (s)	Title	Time Spent
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. Included in the foregoing is the preparation and review of overtime compensation requests.			
Notifying the peace officer prior to the interrogation the nature of the interrogation and identify investigating officers- <i>(Include: review of 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 the peace officer.)</i>			

Use information from time-study.



PEACE OFFICERS' PROCEDURAL BILL OF RIGHTS (POBAR)

State Mandate Reimbursement (SB 90) Activity Log

City: Los Angeles

Fiscal Year: 2007-2008 (July 1, 2007 to June 30, 2008)

If the interrogation was tape recorded by the employee, only then can the agencies cost of tape(s), tape storage and transcription costs.
(Please Include Invoice(s))

Use Information from time-study.

Providing the peace officer with access to the tape prior to further interrogation, at a subsequent time, or if further proceedings are contemplated and the further proceeding is not a disciplinary action, is a transfer for purpose of punishment, is a denial of promotion for reasons other than merit, is an action that results in disadvantage, harm, loss, or hardship and impacts the career of the employee, or is a dismissal, demotion, suspension, salary reduction or written reprimand that harms the employee's reputation or ability to find future employment.

(Include costs to copy tapes and invoice(s) if paid to an outside vendor)

Use Information from time-study.

INTERROGATIONS (continued)

Activities	Name (s)	Title	Time Spent
Producing transcribed copies of notes made by a stenographer or copies of reports or complaints made by investigators or others when requested by the peace officer in the following circumstances: the investigation is not a disciplinary action, or a transfer for purpose of punishment, is a denial of promotion for reasons other than merit, is an action that results in disadvantage, harm, loss, or hardship and impacts the career of the employee, or is a dismissal, demotion, suspension, salary reduction or written reprimand that harms the employee's reputation or ability to find future employment. (Includes the review of complaints notes or tape recordings for issues of confidentiality by law enforcement, human relations or counsel; cost of processing, service and retention of copies.)			Use Information from time-study.

ADVERSE COMMENT- 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.

Activities	Name (s)	Title	Time Spent
Review of circumstances or documentation and determination of whether it's an adverse comment.			Use information from time-study.
Reviewing and preparing adverse comment for accuracy; and time to notify and present to officer.			
Review of response to adverse comment, attaching same to adverse comment and filing			



PEACE OFFICERS' PROCEDURAL BILL OF RIGHTS (POBAR)

State Mandate Reimbursement (SB 90) Activity Log

City: Los Angeles

Fiscal Year: 2007-2008 (July 1, 2007 to June 30, 2008)

If the adverse comment results in depravation of employment through dismissal, suspension, demotion, reduction in salary or written reprimand or harms the officers reputation and opportunity to find future employment, the following activities are reimbursable:

Obtain the signature of the peace officer on the adverse comment or note officer's refusal to sign on the document and obtain officer's signature or initials under such circumstances.

Use information from time-study.

If the adverse comment is related to the investigation of a possible criminal offense, the following activities are reimbursable:

Obtain the signature of the peace officer on the adverse comment or note officer's refusal to sign on the document and obtain officer's signature or initials under such circumstances, plus the officer's time to respond.

Use information from time-study.

If the adverse comment is not related to the investigation of a possible offense, the following activities are reimbursable:

Obtain the signature of the peace officer on the adverse comment or note officer's refusal to sign on the document and obtain officer's signature or initials under such circumstances, plus the officer's time to respond.

Use information from time-study.

Below, provide name, title, phone number and time spent by staff to gather this data and complete the form.

Name	Title	Phone Number	Time Spent
Shawn Beale	Police Officer III	213-216-9713	120 mins
Erica M. Swift	Management Analyst II	213-485-3836	5 mins

Certification:

I declare under penalty of perjury that the foregoing information is true and correct except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Prepared by: Erica M. Swift

Title: _____

MA II

Signature:

Date: _____

1/13/2009

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2007-2008 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	06-07 AVG. SALARY	AVG BI-WKLY SALARY 07/08 Including 3.5% COLA	HOURLY RATE	IND. FIELD @ 130.77% (CAP 30)	IND. ADMIN @ 104.69% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY	07/08 Incremental Cost to a PO II 6- month Salary
2214-1	POLICE OFFICER I		\$2,131.27	2,205.86	27.57	36.06	28.87	28,787	57,573	
2214-2	POLICE OFFICER II		\$2,956.45	3,059.93	38.25	50.02	40.04	39,932	79,864	0
2214-2G	POLICE OFFICER II	G	\$3,366.40	3,484.22	43.55	56.95	45.60	45,469	90,938	\$ 5,537
2214-2H	POLICE OFFICER II	H	\$4,386.53	4,540.06	56.75	74.21	59.41	59,248	118,496	\$ 19,216
2214-2K	POLICE OFFICER II	K	\$3,661.58	3,789.74	47.37	61.95	49.59	49,456	98,912	\$ 5,434
2214-2L	POLICE OFFICER II	L	\$3,492.18	3,614.41	45.18	59.08	47.30	47,168	94,336	\$ 7,236
2214-2M	POLICE OFFICER II	M	\$3,571.82	3,696.83	46.21	60.43	48.38	48,244	96,487	\$ 8,312
2214-3	POLICE OFFICER III		\$3,340.44	3,457.36	43.22	56.51	45.24	45,118	90,237	\$ 5,186
2214-3A	POLICE OFFICER III	A	\$3,643.08	3,770.59	47.13	61.63	49.34	49,206	98,412	\$ 9,274
2214-3B	POLICE OFFICER III	B	\$3,533.90	3,657.59	45.72	59.79	47.86	47,732	95,463	\$ 7,799
2214-3C	POLICE OFFICER III	C	\$3,482.60	3,604.49	45.06	58.92	47.17	47,039	94,077	\$ 7,107
2214-3D	POLICE OFFICER III	D	\$3,629.94	3,756.99	46.96	61.41	49.16	49,029	98,057	\$ 9,097
2214-3E	POLICE OFFICER III	E	\$3,607.42	3,733.68	46.67	61.03	48.86	48,725	97,449	\$ 8,792
2214-3F	POLICE OFFICER III	F	\$3,566.69	3,691.52	46.14	60.34	48.31	48,174	96,349	\$ 8,242
2214-3G	POLICE OFFICER III	G	\$4,049.32	4,191.05	52.39	68.51	54.85	54,693	109,386	\$ 14,761
2214-3J	POLICE OFFICER III	J	\$4,665.60	4,828.90	60.36	78.93	63.19	63,017	126,034	\$ 23,085
2214-3K	POLICE OFFICER III	K	\$3,941.14	4,079.08	50.99	66.68	53.38	53,232	106,464	\$ 13,300
2214-3O	POLICE OFFICER III	O	\$3,529.48	3,653.01	45.66	59.71	47.80	47,672	95,344	\$ 7,740
2214-3P	POLICE OFFICER III	P	\$3,577.44	3,702.65	46.28	60.52	48.45	48,320	96,639	\$ 8,388
2214-3+1	POLICE OFFICER III	R	\$3,633.30	3,760.47	47.01	61.47	49.21	49,074	98,148	\$ 9,142
2214-3S	POLICE OFFICER III	S	\$3,852.27	3,987.10	49.84	65.17	52.18	52,032	104,063	\$ 11,300
2214-3T	POLICE OFFICER III	T	\$3,614.32	3,740.82	46.76	61.15	48.95	48,818	97,635	\$ 8,886
2214-3V	POLICE OFFICER III	V	\$3,626.40	3,753.32	46.92	61.35	49.12	48,981	97,962	\$ 9,049
2214-3W	POLICE OFFICER III	W	\$3,639.38	3,766.76	47.08	61.57	49.29	49,156	98,312	\$ 9,224
2217	POLICE SPECIALIST		\$2,370.40	2,453.36	30.67	40.10	32.11	32,016	64,033	\$ (7,916)
2223-1	POLICE DETECTIVE I		\$3,545.95	3,670.06	45.88	59.99	48.03	47,894	95,789	\$ 7,962
2223-1K	POLICE DETECTIVE I	K	\$4,196.00	4,342.86	54.29	70.99	56.83	56,674	113,349	\$ 16,742
2223-1L	POLICE DETECTIVE I	L	\$3,733.14	3,863.80	48.30	63.16	50.56	50,423	100,845	\$ 10,491
2223-2	POLICE DETECTIVE II		\$3,815.42	3,948.96	49.36	64.55	51.68	51,534	103,068	\$ 11,602
2223-2K	POLICE DETECTIVE II	K	\$4,453.96	4,609.85	57.62	75.35	60.33	60,159	120,317	\$ 20,226
2223-2L	POLICE DETECTIVE II	L	\$4,085.34	4,228.33	52.85	69.12	55.33	55,180	110,359	\$ 15,248
2223-2Y	POLICE DETECTIVE II	Y	\$4,077.60	4,220.32	52.75	68.99	55.23	55,075	110,150	\$ 15,143

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2007-2008 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	06-07 AVG. SALARY	AVG BI-WKLY SALARY 07/08 Including 3.5% COLA	HOURLY RATE	IND. FIELD @ 130.77% (CAP 30)	IND. ADMIN @ 104.69% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY	07/08 Incremental Cost to a PO II 8- month Salary
2223-3	POLICE DETECTIVE III		\$4,196.23	4,343.10	54.29	70.99	56.83	56,677	113,355	\$ 16,745
2223-3L	POLICE DETECTIVE III	L	\$4,429.60	4,584.64	57.31	74.94	60.00	59,829	119,659	\$ 19,897
2227-1	POLICE SERGEANT I		\$3,780.28	3,912.59	48.91	63.96	51.20	51,059	102,119	\$ 11,127
2227-1M	POLICE SERGEANT I	M	\$4,304.77	4,455.44	55.69	72.83	58.30	58,143	116,287	\$ 18,211
2227-1T	POLICE SERGEANT I	T	\$4,404.48	4,558.64	56.98	74.52	59.66	59,490	118,980	\$ 18,211
2227-2	POLICE SERGEANT II		\$4,013.67	4,154.15	51.93	67.90	54.36	54,212	108,423	\$ 14,280
2227-2G	POLICE SERGEANT II	G	\$4,788.80	4,956.41	61.96	81.02	64.86	64,681	129,362	\$ 24,749
2227-2K	POLICE SERGEANT II	K	\$4,630.40	4,792.46	59.91	78.34	62.72	62,542	125,083	\$ 22,610
2227-2S	POLICE SERGEANT II	S	\$4,542.40	4,701.38	58.77	76.85	61.52	61,353	122,706	\$ 21,421
2227-2T	POLICE SERGEANT II	T	\$4,308.37	4,459.16	55.74	72.89	58.35	58,192	116,384	\$ 18,260
2227-2X	POLICE SERGEANT II	X	\$4,517.31	4,675.42	58.44	76.43	61.18	61,014	122,028	\$ 21,082
2232-1	POLICE LIEUTENANT I		\$4,433.51	4,588.68	57.36	75.01	60.05	59,882	119,765	\$ 19,950
2232-1Q	POLICE LIEUTENANT I	Q	\$4,933.60	5,106.28	63.83	83.47	66.82	66,637	133,274	\$ 26,705
2232-1Y	POLICE LIEUTENANT I	Y	\$5,056.80	5,233.79	65.42	85.55	68.49	68,301	136,602	\$ 28,369
2232-2	POLICE LIEUTENANT II		\$4,698.82	4,863.28	60.79	79.50	63.64	63,466	126,932	\$ 23,534
2232-2G	POLICE LIEUTENANT II	G	\$5,065.60	5,242.90	65.54	85.70	68.61	68,420	136,840	\$ 28,488
2232-2Y	POLICE LIEUTENANT II	Y	\$5,208.00	5,390.28	67.38	88.11	70.54	70,343	140,686	\$ 30,411
2244-1	POLICE CAPTAIN I		\$4,864.48	5,034.74	62.93	82.30	65.89	65,703	131,407	\$ 25,771
2244-2	POLICE CAPTAIN II		\$5,488.62	5,680.72	71.01	92.86	74.34	74,133	148,267	\$ 34,201
2244-3	POLICE CAPTAIN III		\$5,760.67	5,962.29	74.53	97.46	78.02	77,808	155,616	\$ 37,876
2251	POLICE COMMANDER		\$6,376.85	6,600.04	82.50	107.89	86.37	86,131	172,261	\$ 98
2251-Y	POLICE COMMANDER	Y	\$6,783.20	7,020.61	87.76	114.76	91.87	91,619	183,238	\$ 51,687
2262-1	POLICE DEPUTY CHIEF I		\$6,973.50	7,217.57	90.22	117.98	94.45	94,189	188,379	\$ 54,257
2262-1Y	POLICE DEPUTY CHIEF	Y	\$7,089.60	7,337.74	91.72	119.94	96.02	95,757	191,515	\$ 55,825
2262-2	POLICE DEPUTY CHIEF II		\$7,684.80	7,953.77	99.42	130.01	104.08	103,797	207,593	\$ 63,865

**WAGES AND COUNT
CIVILIAN 2007-2008**

CLASS CODE	CLASS TITLE	FY08-07 AVG BI-WEEKLY SALARY	AVG BI-WEEKLY including Jan 2007 2.26% COLA (COLA pending for FY 07-08)	HOURLY RATE	INDIRECT ADMIN @ 76.86% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY
1793-1	PHOTOGRAPHER I	\$ 1,775.20	\$ 1,815.14	\$ 22.69	\$ 17.44	\$ 23,688	\$ 47,375
1793-2	PHOTOGRAPHER II	\$ 2,474.40	\$ 2,530.07	\$ 31.63	\$ 24.30	\$ 33,017	\$ 66,035
1793-3	PHOTOGRAPHER III	\$ 2,566.30	\$ 2,624.04	\$ 32.80	\$ 25.21	\$ 34,244	\$ 68,487
1793-3Y	PHOTOGRAPHER III (BONUS Y)	\$ 2,558.90	\$ 2,616.48	\$ 32.71	\$ 25.13	\$ 34,145	\$ 68,290
1794	PRINCIPAL PHOTOGRAPHER	\$ 3,346.40	\$ 3,421.69	\$ 42.77	\$ 32.87	\$ 44,653	\$ 89,306
1795-1	SR PHOTOGRAPHER I	\$ 2,708.00	\$ 2,768.93	\$ 34.61	\$ 26.60	\$ 36,135	\$ 72,269
1795-2	SR PHOTOGRAPHER II	\$ 2,921.80	\$ 2,987.54	\$ 37.34	\$ 28.70	\$ 38,987	\$ 77,975
1800-1	PUBLIC INFORMATION DIRECTOR I	\$ 3,559.20	\$ 3,639.28	\$ 45.49	\$ 34.96	\$ 47,493	\$ 94,985
1800-2	PUBLIC INFORMATION DIRECTOR II (BONUS B)	\$ 4,920.00	\$ 5,030.70	\$ 62.88	\$ 48.33	\$ 65,651	\$ 131,301
1832-1	WRHSE & TOOL RM WRKR I	\$ 1,621.60	\$ 1,658.09	\$ 20.73	\$ 15.93	\$ 21,638	\$ 43,276
1832-2	WRHSE & TOOL RM WRKR II	\$ 1,702.40	\$ 1,740.70	\$ 21.76	\$ 16.72	\$ 22,716	\$ 45,432
1835-1	STOREKEEPER I	\$ 1,820.00	\$ 1,860.95	\$ 23.26	\$ 17.88	\$ 24,285	\$ 48,571
1835-2	STOREKEEPER II	\$ 1,902.40	\$ 1,945.20	\$ 24.32	\$ 18.69	\$ 25,385	\$ 50,770
1837	SR STOREKEEPER	\$ 2,196.80	\$ 2,246.23	\$ 28.08	\$ 21.58	\$ 29,313	\$ 58,627
2200-1	FORENSIC PRINT SPECIALIST I	\$ 2,319.64	\$ 2,371.83	\$ 29.65	\$ 22.78	\$ 30,952	\$ 61,905
2200-2	FORENSIC PRINT SPECIALIST II	\$ 2,694.49	\$ 2,755.12	\$ 34.44	\$ 26.47	\$ 35,954	\$ 71,909
2200-3	FORENSIC PRINT SPECIALIST III	\$ 3,206.93	\$ 3,279.09	\$ 40.99	\$ 31.50	\$ 42,792	\$ 85,584
2200-4	FORENSIC PRINT SPECIALIST IV	\$ 3,408.91	\$ 3,485.61	\$ 43.57	\$ 33.48	\$ 45,487	\$ 90,974
2201	SR FORENSIC PR SPECIALIST	\$ 3,789.20	\$ 3,884.68	\$ 48.56	\$ 37.32	\$ 50,695	\$ 101,390
2202	POLICE SERVICE ASSISTANT	\$ 1,801.60	\$ 1,842.14	\$ 23.03	\$ 17.70	\$ 24,040	\$ 48,080
2203	PR FORENSIC PR SPECIALIST	\$ 3,990.40	\$ 4,080.18	\$ 51.00	\$ 39.20	\$ 53,246	\$ 106,493
2207-1	POLICE SERVICE REPRESENTATIVE I	\$ 1,904.48	\$ 1,947.33	\$ 24.34	\$ 18.71	\$ 25,413	\$ 50,825
2207-2	POLICE SERVICE REPRESENTATIVE II	\$ 2,335.60	\$ 2,388.15	\$ 29.85	\$ 22.94	\$ 31,165	\$ 62,331
2207-2B	POLICE SERVICE REPRESENTATIVE II (BONUS B)	\$ 2,698.40	\$ 2,759.11	\$ 34.49	\$ 26.50	\$ 36,006	\$ 72,013
2207-2N	POLICE SERVICE REPRESENTATIVE II (BONUS N)	\$ 2,514.06	\$ 2,570.63	\$ 32.13	\$ 24.69	\$ 33,547	\$ 67,093
2207-2R	POLICE SERVICE REPRESENTATIVE II (BONUS R)	\$ 2,752.40	\$ 2,814.33	\$ 35.18	\$ 27.04	\$ 36,727	\$ 73,454
2207-3	POLICE SERVICE REPRESENTATIVE III	\$ 2,902.61	\$ 2,967.92	\$ 37.10	\$ 28.51	\$ 38,731	\$ 77,463
2207-3B	POLICE SERVICE REPRESENTATIVE III (BONUS B)	\$ 3,090.40	\$ 3,159.93	\$ 39.50	\$ 30.36	\$ 41,237	\$ 82,474
2207-3N	POLICE SERVICE REPRESENTATIVE III (BONUS N)	\$ 3,141.27	\$ 3,211.95	\$ 40.15	\$ 30.85	\$ 41,916	\$ 83,832
2207-3R	POLICE SERVICE REPRESENTATIVE III (BONUS R)	\$ 3,186.40	\$ 3,258.09	\$ 40.73	\$ 31.30	\$ 42,518	\$ 85,036
2209-1	SR POLICE SERVICE REP I	\$ 3,006.79	\$ 3,074.44	\$ 38.43	\$ 29.53	\$ 40,121	\$ 80,243
2209-1R	SR POLICE SERVICE REP I (BONUS R)	\$ 3,266.40	\$ 3,339.89	\$ 41.75	\$ 32.08	\$ 43,586	\$ 87,171
2209-2	SR POLICE SERVICE REP II	\$ 3,256.00	\$ 3,329.26	\$ 41.62	\$ 31.98	\$ 43,447	\$ 86,894
2210	COMMUNITY POLICE AIDE	\$ 1,044.80	\$ 1,068.31	\$ 13.35	\$ 10.26	\$ 13,941	\$ 27,883
2233	FIREARMS EXAMINER	\$ 3,502.93	\$ 3,581.75	\$ 44.77	\$ 34.41	\$ 46,742	\$ 93,484
2234-1	CRIMINALIST I	\$ 2,450.31	\$ 2,505.44	\$ 31.32	\$ 24.07	\$ 32,696	\$ 65,392
2234-2	CRIMINALIST II	\$ 3,584.31	\$ 3,664.96	\$ 45.81	\$ 35.21	\$ 47,828	\$ 95,655
2234-2W	CRIMINALIST II (BONUS W)	\$ 3,805.60	\$ 3,891.23	\$ 48.64	\$ 37.38	\$ 50,780	\$ 101,561
2234-3	CRIMINALIST III	\$ 3,846.56	\$ 3,933.11	\$ 49.16	\$ 37.78	\$ 51,327	\$ 102,654
2235	SUPERVISING CRIMINALIST	\$ 4,127.77	\$ 4,220.64	\$ 52.76	\$ 40.54	\$ 55,079	\$ 110,159

**WAGES AND COUNT
CIVILIAN 2007-2008**

CLASS CODE	CLASS TITLE	FY06-07 AVG BI-WEEKLY SALARY	AVG BI-WEEKLY Including Jan 2007 2.25% COLA (COLA pending for FY 07-08)	HOURLY RATE	INDIRECT ADMIN @ 76.85% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY
0020	POLICE PERMIT REVIEW PANEL		\$ -	\$ -	\$ -	\$ -	\$ -
0101	POLICE COMMISSIONER		\$ -	\$ -	\$ -	\$ -	\$ -
0600	EXECUTIVE DIRECTOR POLICE COMMISSION	\$ 5,782.40	\$ 5,912.50	\$ 73.91	\$ 58.80	\$ 77,158	\$ 154,316
0601	INSPECTOR GENERAL	\$ 5,782.40	\$ 5,912.50	\$ 73.91	\$ 56.80	\$ 77,158	\$ 154,316
0602-2	SPECIAL INVESTIGATOR II	\$ 3,348.96	\$ 3,424.31	\$ 42.80	\$ 32.89	\$ 44,687	\$ 89,375
0603	ASSISTANT INSPECTOR GENERAL	\$ 5,013.87	\$ 5,126.68	\$ 64.08	\$ 49.25	\$ 66,903	\$ 133,806
1101	OFFICE TRAINEE	\$ 944.80	\$ 966.06	\$ 12.08	\$ 9.28	\$ 12,607	\$ 25,214
1105-3	CRAFT TRAINEE/EQPT MECH	\$ 1,901.60	\$ 1,944.39	\$ 24.30	\$ 18.68	\$ 25,374	\$ 50,748
1116	SECRETARY	\$ 2,053.77	\$ 2,099.98	\$ 26.25	\$ 20.17	\$ 27,405	\$ 54,809
1117-1	EXECUTIVE ADMINISTRATIVE ASSISTANT I	\$ 2,029.60	\$ 2,075.27	\$ 25.94	\$ 19.94	\$ 27,082	\$ 54,164
1117-2	EXECUTIVE ADMINISTRATIVE ASSISTANT II	\$ 2,412.21	\$ 2,466.48	\$ 30.83	\$ 23.69	\$ 32,188	\$ 64,375
1117-3	EXECUTIVE ADMINISTRATIVE ASSISTANT III	\$ 2,668.80	\$ 2,728.85	\$ 34.11	\$ 26.21	\$ 35,611	\$ 71,223
1121-1	DELIVERY DRIVER I	\$ 1,486.80	\$ 1,530.48	\$ 19.13	\$ 14.70	\$ 19,973	\$ 39,945
1121-2	DELIVERY DRIVER II	\$ 1,314.40	\$ 1,343.97	\$ 16.80	\$ 12.91	\$ 17,539	\$ 35,078
1129	PERSONNEL RECORDS SUPERVISOR	\$ 2,349.20	\$ 2,402.06	\$ 30.03	\$ 23.07	\$ 31,347	\$ 62,694
1141	CLERK	\$ 1,435.20	\$ 1,467.49	\$ 18.34	\$ 14.10	\$ 19,151	\$ 38,302
1143	SR CLERK	\$ 1,902.40	\$ 1,945.20	\$ 24.32	\$ 18.69	\$ 25,385	\$ 50,770
1152-2	PRINCIPAL CLERK POLICE II	\$ 2,334.78	\$ 2,387.31	\$ 29.84	\$ 22.93	\$ 31,154	\$ 62,309
1152-2N	PRINCIPAL CLERK POLICE II (BONUS N)	\$ 2,395.73	\$ 2,449.63	\$ 30.62	\$ 23.53	\$ 31,968	\$ 63,935
1152-3	PRINCIPAL CLERK POLICE III	\$ 2,571.20	\$ 2,629.05	\$ 32.86	\$ 25.26	\$ 34,309	\$ 68,618
1152-3N	PRINCIPAL CLERK POLICE III (BONUS N)	\$ 2,617.68	\$ 2,676.58	\$ 33.46	\$ 25.71	\$ 34,929	\$ 69,859
1157-1	FINGERPRINT IDEN. EXPERT I	\$ 1,916.27	\$ 1,959.39	\$ 24.49	\$ 18.82	\$ 25,570	\$ 51,140
1157-2	FINGERPRINT IDEN. EXPERT II	\$ 2,166.97	\$ 2,215.73	\$ 27.70	\$ 21.28	\$ 28,915	\$ 57,830
1157-3	FINGERPRINT IDEN. EXPERT III	\$ 2,298.13	\$ 2,349.84	\$ 29.37	\$ 22.57	\$ 30,665	\$ 61,331
1158-1	PR FINGERPRINT IDEN. EXPERT I	\$ 2,508.80	\$ 2,565.25	\$ 32.07	\$ 24.64	\$ 33,476	\$ 66,953
1158-2	PR FINGERPRINT IDEN. EXPERT II	\$ 2,652.00	\$ 2,711.67	\$ 33.90	\$ 26.05	\$ 35,387	\$ 70,775
1170-1	PAYROLL SUPERVISOR I	\$ 2,468.40	\$ 2,523.94	\$ 31.55	\$ 24.25	\$ 32,937	\$ 65,875
1170-2	PAYROLL SUPERVISOR II	\$ 2,776.00	\$ 2,838.46	\$ 35.48	\$ 27.27	\$ 37,042	\$ 74,084
1223-1	ACCOUNTING CLERK I	\$ 1,778.40	\$ 1,818.41	\$ 22.73	\$ 17.47	\$ 23,730	\$ 47,461
1223-2	ACCOUNTING CLERK II	\$ 1,990.73	\$ 2,035.52	\$ 25.44	\$ 19.55	\$ 26,564	\$ 53,127
1249-2	CHIEF CLERK POLICE II	\$ 2,994.40	\$ 3,061.77	\$ 38.27	\$ 29.41	\$ 39,956	\$ 79,912
1321	CLERK STENOGRAPHER	\$ 1,731.20	\$ 1,770.15	\$ 22.13	\$ 17.00	\$ 23,100	\$ 46,201
1323	SENIOR CLERK STENOGRAPHER	\$ 2,008.80	\$ 2,054.00	\$ 25.67	\$ 19.73	\$ 26,805	\$ 53,609
1326	HEARING REPORTER	\$ 2,453.76	\$ 2,508.97	\$ 31.36	\$ 24.10	\$ 32,742	\$ 65,484
1358	CLERK TYPIST	\$ 1,541.76	\$ 1,576.45	\$ 19.71	\$ 15.14	\$ 20,573	\$ 41,145
1360	OFFICE SERVICES ASSISTANT	\$ 1,240.80	\$ 1,268.72	\$ 15.86	\$ 12.19	\$ 16,557	\$ 33,114
1368	SENIOR CLERK TYPIST	\$ 1,933.07	\$ 1,976.56	\$ 24.71	\$ 18.99	\$ 25,794	\$ 51,588
1368N	SENIOR CLERK TYPIST (BONUS N)	\$ 2,300.80	\$ 2,352.57	\$ 29.41	\$ 22.60	\$ 30,701	\$ 61,402
1368R	SENIOR CLERK TYPIST (BONUS R)	\$ 1,930.40	\$ 1,973.83	\$ 24.67	\$ 18.96	\$ 25,759	\$ 51,517
1431-3	PROGRAMMER/ANALYST III	\$ 2,741.60	\$ 2,803.29	\$ 35.04	\$ 26.93	\$ 36,583	\$ 73,166

COST ALLOCATION PLAN 30
INDIRECT OR ADMINISTRATIVE COST FACTORS – POLICE DEPARTMENT
Effective 7/1/2007 through 6/30/2008

COST ALLOCATION PLAN (CAP) 30-APPROVED BY THE FEDERAL GOVERNMENT

SWORN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Pension	27.92%
Flex Benefit Program	10.10
Employee Assistance	0.06
Medicare	1.19
Part Time/Seasonal/Temporary Pension.....	0.06
Unused Sick/Vacation Payout	1.45
Unemployment Claims	0.01
Workers' Compensation	6.65
Carry Forward, Positive	0.17
Total Fringe Benefits	47.61%
Department Administrative Rate	34.45%
General City Overhead	22.63
	57.08%
Total Sworn Overhead	104.69%

Department Field Support **26.08%**

Note: This indirect cost rate is added to the other rates, when the function or grant includes services provided by sworn employees assigned to the field, and is to be applied only to that portion of the function or grant. The rate represents five Department divisions that support field operations: Records and Identification, Scientific Investigation, Communications, Property and Jail.

CIVILIAN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Retirement	23.08%
Flex Benefit Program	10.29
Employee Assistance	0.02
Medicare	1.11
Union-Sponsored Benefits	0.31
Unused Sick/Vacation Payout	0.73
Unemployment Claims	0.04
Workers' Compensation	5.60
Carry Forward, Positive	0.48
Total Fringe Benefits	41.67%
Department Administrative Rate	18.11%
General City Overhead	17.07
	35.18%
Total Civilian Overhead	76.85%

NOTE: CAP rates are not applied to overtime charges. If extensive overtime is charged to a grant (more than 50% of straight-time charges), or for more information about applying CAP rates, call Fiscal Operations Division at (213) 485-3836.

	TOTAL	
	SWORN	CIVILIAN
MISCELLANEOUS (HOURS USED)	857,481	436,228
Absence Without Pay - (AW)	450	1,316
Leave Without Pay (8L, LW, PL)	35,193	84,388
Bereavement Leave - (BL)	20,171	8,139
Floating Holiday (Including hours in excess of benefits)	0	29,344
Holiday (HO)	801,663	302,470
Jury Duty - (JD)	4	10,571
TOTAL COMPENSATION (EXCLUDING OVERTIME WORKED AND PAID)	4,029,454.0	1,394,954
AVERAGE DEPLOYMENT	9,523	3,286
ADDITIONAL TIME OFF PER EMPLOYEE (PAID AND NOT PAID)	423	425

CALCULATION OF FTEs	SWORN	CIV
Total Hrs per calendar year (365 calendar days x 8 hrs)	2,920	2,920
Regular days off [(52 weeks x 2 days) x 8 hrs]	832	832
Total Working Hours per calendar year	2,088	2,088
Add'l time off per employee (Paid and not paid)	423	425
Total Hours per FTE	1,665	1,663

CALCULATION OF RELIEF FACTOR	SWORN	CIV
Total Working Hrs to staff 1 pos'n for 8 hrs (1 watch) 365 days/yr	2,920	2,920
Total Working Hrs/employee	1,665	1,663
Unstaff Hrs per year	1,255	1,257
Relief Factor (Unstaffed Hrs/Total Wrkg Hrs per employee)	0.754	0.755
No. of employees required to staff 1 pos. 8 hrs/day 365 day/yr	1.754	1.755

LAPD - Salary Info. for 07-08 Claims

<u>Title</u>	<u>Avg Annual Salary</u>	<u>PHR</u>
Police Officer I	\$ 57,573.00	\$ 31.99
Police Officer II	\$ 96,565.50	\$ 53.65
Police Officer III	\$ 100,001.82	\$ 55.56
Average Rate	\$ 84,713	\$ 47.06
 Clerk Typist	 \$ 41,145.00	 \$ 22.86
Sr. Clerk Typist	\$ 51,588.00	\$ 28.66
Mgmt Analyst II	\$ 74,556.00	\$ 41.42
Police Svc Rep	\$ 62,331.00	\$ 34.63
Principal Clerk Police II	\$ 62,309.00	\$ 34.62
 Police Detective I	 \$ 103,327.67	 \$ 57.40
Police Detective II	\$ 110,973.50	\$ 61.65
Police Detective III	\$ 116,507.00	\$ 64.73
Police Captain I	\$ 131,407.00	\$ 73.00
Police Captain II	\$ 148,267.00	\$ 82.37
Police Captain III	\$ 155,616.00	\$ 86.45
Police Sergeant I	\$ 112,462.00	\$ 62.48
Police Sergeant II	\$ 120,664.33	\$ 67.04
Police Lieutenant I	\$ 132,349.83	\$ 73.53
Police Lieutenant II	\$ 134,819.33	\$ 74.90

COST ALLOCATION PLAN 30
INDIRECT OR ADMINISTRATIVE COST FACTORS – POLICE DEPARTMENT
Effective 7/1/2007 through 6/30/2008

COST ALLOCATION PLAN (CAP) 30-APPROVED BY THE FEDERAL GOVERNMENT

SWORN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Pension	27.92%
Flex Benefit Program	10.10
Employee Assistance	0.06
Medicare	1.19
Part Time/Seasonal/Temporary Pension.....	0.06
Unused Sick/Vacation Payout	1.45
Unemployment Claims	0.01
Workers' Compensation	6.65
Carry Forward, Positive	0.17
Total Fringe Benefits	47.61%
Department Administrative Rate	34.45%
General City Overhead	22.63
	57.08%
Total Sworn Overhead	104.69%

Department Field Support **26.08%**


Note: This indirect cost rate is added to the other rates, when the function or grant includes services provided by sworn employees assigned to the field, and is to be applied only to that portion of the function or grant. The rate represents five Department divisions that support field operations: Records and Identification, Scientific Investigation, Communications, Property and Jail.

CIVILIAN EMPLOYEES STRAIGHT TIME:

Fringe Benefits	
Retirement	23.08%
Flex Benefit Program	10.29
Employee Assistance	0.02
Medicare	1.11
Union-Sponsored Benefits	0.31
Unused Sick/Vacation Payout	0.73
Unemployment Claims	0.04
Workers' Compensation	5.60
Carry Forward, Positive	0.48
Total Fringe Benefits	41.67%
Department Administrative Rate	18.11%
General City Overhead	17.07
	35.18%
Total Civilian Overhead	76.85%

NOTE: CAP rates are not applied to overtime charges. If extensive overtime is charged to a grant (more than 50% of straight-time charges), or for more information about applying CAP rates, call Fiscal Operations Division at (213) 485-3836.

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: November 10, 2008 **MEMORANDUM NO. 08-042**
TO: All City Office/Department Heads
FROM: Rushmore D. Cervantes, Chief Deputy Controller 
SUBJECT: 2007-08 INDIRECT COST RATES—COST ALLOCATION PLAN (CAP) 30

Attached are the approved Cost Allocation Plan (CAP) 30 indirect cost rates and instructions on their use. Please note that there are a number of changes from the interim rates distributed on November 15, 2007. In addition, beginning with CAP 30, the Federal Negotiator reviews and publishes rates only for departments that have direct Federal awards.

The rates were approved by the U.S. Department of Health and Human Services under contract with the City's cognizant federal agency, the U.S. Department of Housing and Urban Development. These rates must be used in all new applications, contracts, and billings for grant activities and to compute overhead amounts to be included with fees for special services during fiscal year 2007-08.

The indirect cost rates for the departments not included in the attached "State and Local Rate Agreement" were not reviewed by the Federal Negotiator. However, such rates included in the attached "Indirect Cost Rates" were audited by the City's external auditors, Simpson & Simpson, CPAs.

Questions regarding the Cost Allocation Plan or indirect cost rates may be directed to the CAP staff at 978-7327.

Attachments: A – Indirect Cost Rates
B – Instructions
C – Costs Included in Rate Calculations
State and Local Rate Agreement

STATE AND LOCAL RATE AGREEMENT

City of Los Angeles
200 N. Main Street
Los Angeles, CA 90012

DATE: Sept. 30, 2008
FILING REF.: The preceding agreement was dated:
July 30, 2007 G44300

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions contained in Section IV.

SECTION I: CENTRAL SERVICE INDIRECT COST RATES*

<u>Type</u>	<u>Effective Period</u>		<u>Rate</u>	<u>Location</u>	<u>Applicable to</u>
	<u>From</u>	<u>To</u>			
					AGING
Fixed	07/01/07	06/30/08	48.36%	All	Balance of Dept.
Fixed	07/01/07	06/30/08	1.87%	All	Special Fund (Title V)
					CITY ADMIN. OFFICER (CAO)
					CRA, Petroleum Admin.,
					Proprietary, Capital
Fixed	07/01/07	06/30/08	37.64%	All	Projects (Phy. Plant)
Fixed	07/01/07	06/30/08	96.38%	All	Disaster Grants Coord.
					CITY ATTORNEY
Fixed	07/01/07	06/30/08	17.26%	All	Criminal
Fixed	07/01/07	06/30/08	1.82%	User's Site	Direct (Proprietary/CRA)
Fixed	07/01/07	06/30/08	14.73%	City Space	Direct (CDD, Housing Auth)
					COMMUNITY DEVELOPMENT
Fixed	07/01/07	06/30/08	21.95%	All	Balance of Department
Fixed	07/01/07	06/30/08	5.07%	All	As Needed Employees
Fixed	07/01/07	06/30/08	26.79%	All	DEPT. ON DISABILITY
					EMERGENCY PREPAREDNESS
Fixed	07/01/07	06/30/08	101.23%	All	Policy & Public Info.
					ENVIRONMENTAL AFFAIRS
Fixed	07/01/07	06/30/08	55.97%	All	Policy & Public Info.
					FIRE
Fixed	07/01/07	06/30/08	36.18%	All	Civilian
Fixed	07/01/07	06/30/08	21.83%	All	Sworn
					HOUSING
Fixed	07/01/07	06/30/08	16.90%	All	Grants Funded Housing
Fixed	07/01/07	06/30/08	8.19%	All	Enforcement
Fixed	07/01/07	06/30/08	0.00%	All	Housing, Internal Admin

City of Los Angeles

AGREEMENT DATE: September 30, 2008

SECTION I: CENTRAL SERVICE INDIRECT COST RATES* (continued)

<u>Type</u>	<u>Effective Period</u>		<u>Rate</u>	<u>Location</u>	<u>Applicable to</u>
	<u>From</u>	<u>To</u>			
Fixed	07/01/07	06/30/08	33.78%	All	LIBRARY
					MAYOR
Fixed	07/01/07	06/30/08	100.26%	All	Executive/Policy
Fixed	07/01/07	06/30/08	321.69%	All	Grant Funded/Spec. Prog.
Fixed	07/01/07	06/30/08	52.52%	City Space	Direct Billed
					POLICE
Fixed	07/01/07	06/30/08	17.07%	All	Civilian
Fixed	07/01/07	06/30/08	22.63%	All	Sworn
					PUBLIC WORKS DEPARTMENT
					Board Office Direct:
Fixed	07/01/07	06/30/08	70.06%	All	Pub. Svcs.
					Contract Administration
Fixed	07/01/07	06/30/08	29.25%	All	Construction Inspection
					Engineering
Fixed	07/01/07	06/30/08	18.78%	All	Stormwater Facilities Eng.
Fixed	07/01/07	06/30/08	19.07%	All	Wastewater Facilities Eng.
Fixed	07/01/07	06/30/08	32.13%	All	Privately Fin. Imprv. Eng.
Fixed	07/01/07	06/30/08	17.75%	All	Street Improvements Eng.
Fixed	07/01/07	06/30/08	21.33%	All	Municipal Facilities Eng.
Fixed	07/01/07	06/30/08	20.24%	All	Gen'l. Mapping & Survey
					Sanitation
Fixed	07/01/07	06/30/08	118.53%	All	Solid Waste Program
Fixed	07/01/07	06/30/08	30.54%	All	Wastewater/Flood Control
Fixed	07/01/07	06/30/08	46.08%	All	Street Lighting
Fixed	07/01/07	06/30/08	79.19%	All	Street Services
Fixed	07/01/07	06/30/08	40.42%	All	RECREATION & PARKS
Fixed	07/01/07	06/30/08	40.33%	All	TRANSPORTATION
Fixed	07/01/07	06/30/08	33.07%	All	ZOO DEPARTMENT

*BASE: Direct salaries and wages including vacation, holiday, sick pay and other paid absences but excluding all other fringe benefits.

City of Los Angeles

AGREEMENT DATE: September 30, 2008

SECTION II: FRINGE BENEFITS RATES*

<u>Type</u>	<u>Effective Period</u>		<u>Rate</u>	<u>Location</u>	<u>Applicable to</u>
	<u>From</u>	<u>To</u>			
					AGING
Fixed	07/01/07	06/30/08	36.04%	All	Balance of Dept.
Fixed	07/01/07	06/30/08	7.21%	All	Special Fund (Title V)
					CITY ADMIN. OFFICER (CAO)
					CRA, Petroleum Admin.,
					Proprietary, Capital
Fixed	07/01/07	06/30/08	32.68%	All	Projects (Phy. Plant)
Fixed	07/01/07	06/30/08	34.11%	All	Disaster Grants Coord.
					CITY ATTORNEY
					Criminal
Fixed	07/01/07	06/30/08	35.34%	All	Direct (Proprietary/CRA)
Fixed	07/01/07	06/30/08	33.09%	User's Site	Direct (CDD; Housing Auth)
Fixed	07/01/07	06/30/08	32.27%	City Space	
					COMMUNITY DEVELOPMENT
					Balance of Department
Fixed	07/01/07	06/30/08	36.54%	All	As Needed Employees
Fixed	07/01/07	06/30/08	9.87%	All	
					DEPT. ON DISABILITY
					EMERGENCY PREPAREDNESS
					Policy & Public Info.
					ENVIRONMENTAL AFFAIRS
					Policy & Public Info.
					FIRE
					Civilian
Fixed	07/01/07	06/30/08	39.49%	All	Sworn
Fixed	07/01/07	06/30/08	46.46%	All	
					HOUSING
					Grants Funded Housing
Fixed	07/01/07	06/30/08	35.84%	All	Enforcement
Fixed	07/01/07	06/30/08	37.72%	All	Housing, Internal Admin.
Fixed	07/01/07	06/30/08	34.87%	All	
					LIBRARY
					MAYOR
					Executive/Policy
Fixed	07/01/07	06/30/08	40.49%	All	Grant Funded/Spec. Prog.
Fixed	07/01/07	06/30/08	43.16%	All	Direct Billed
Fixed	07/01/07	06/30/08	36.20%	City Space	

City of Los Angeles

AGREEMENT DATE: September 30, 2008

SECTION II: FRINGE BENEFITS RATES* (continued)

<u>Type</u>	<u>Effective Period</u>		<u>Rate</u>	<u>Location</u>	<u>Applicable to</u>
	<u>From</u>	<u>To</u>			
					POLICE
Fixed	07/01/07	06/30/08	41.67%	All	Civilian
Fixed	07/01/07	06/30/08	47.61%	All	Sworn
					PUBLIC WORKS DEPARTMENT
Fixed	07/01/07	06/30/08	39.25%	All	Board Office Direct: Pub. Svcs.
Fixed	07/01/07	06/30/08	37.48%	All	Contract Administration Construction Inspection
Fixed	07/01/07	06/30/08	36.76%	All	Engineering
Fixed	07/01/07	06/30/08	37.03%	All	Stormwater Facilities Eng. Wastewater Facilities Eng.
Fixed	07/01/07	06/30/08	37.31%	All	Privately Fin. Imprv. Eng.
Fixed	07/01/07	06/30/08	37.18%	All	Street Improvements Eng.
Fixed	07/01/07	06/30/08	36.13%	All	Municipal Facilities Eng.
Fixed	07/01/07	06/30/08	37.80%	All	Gen'l. Mapping & Survey
Fixed	07/01/07	06/30/08	46.27%	All	Sanitation
Fixed	07/01/07	06/30/08	39.49%	All	Solid Waste Program Wastewater/Flood Control
Fixed	07/01/07	06/30/08	37.86%	All	Street Lighting
Fixed	07/01/07	06/30/08	42.20%	All	Street Services
Fixed	07/01/07	06/30/08	52.62%	All	RECREATION & PARKS
Fixed	07/01/07	06/30/08	44.23%	All	TRANSPORTATION
Fixed	07/01/07	06/30/08	40.83%	All	ZOO DEPARTMENT

*BASE: Direct salaries and wages including vacation, holiday, sick pay and other paid absences but excluding all other fringe benefits.

City of Los Angeles

AGREEMENT DATE: September 30, 2008

SECTION III: SPECIAL REMARKS

TREATMENT OF PAID ABSENCES

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are charged to Federal projects as part of the normal charge for salaries and wages. Separate charges for the cost of these absences are not made.

TREATMENT OF OTHER FRINGE BENEFITS

This organization uses a fringe benefit rate which is applied to salaries and wages for both budgeting and charging purposes for Federal projects. The fringe benefits listed below are included in the fringe benefit rate.

RETIREMENT, FLEX BENEFIT PROGRAM (HEALTH, DENTAL & BASIC LIFE INSURANCE), EMPLOYEE ASSISTANCE, ORDINANCE LIFE INSURANCE, MEDICARE, SOCIAL SECURITY, UNION SPONSORED BENEFITS, UNUSED SICK/VACATION PAYOUT, UNEMPLOYMENT INSURANCE, WORKER'S COMPENSATION and HIRING HALL FRINGE.

BILLED COSTS

In addition to the costs distributed through the rates cited in Sections I and II, the costs of central services listed below may be billed directly to user departments/agencies.

PRINTING SERVICES DIVISION

DEFINITION OF EQUIPMENT

Equipment is defined as tangible nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

City of Los Angeles

AGREEMENT DATE: September 30, 2008

SECTION IV: GENERAL

A. LIMITATIONS: The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its indirect cost pool as finally accepted; such costs are legal obligations of the department/agency and are allowable under the governing cost principles; (2) The same costs that have been treated as indirect costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES: This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from indirect to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES: If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. BILLED COSTS: Charges for the services listed in Section III will be billed in accordance with rates established by the State/locality. These rates will be based on the estimated costs of providing the services. Adjustments for variances between billed costs and the actual allowable costs of providing the services, as defined by OMB Circular A-87, will be made in accordance with procedures agreed to between the State/locality and the approving agency.

E. USE BY OTHER FEDERAL AGENCIES: The rates in this Agreement were approved in accordance with the authority in Office of Management and Budget Circular A-87, and should be applied to grants, contracts and other agreements covered by this Circular, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

BY THE ORGANIZATION

City of Los Angeles
(ORGANIZATION)

(SIGNATURE)

(NAME) Antonio R. Villaraigosa
Mayor

(TITLE)

(DATE)

NOV 04 2008

Approved as to Form

ROCKARD J. DELGADILLO, City Attorney

By

ON BEHALF OF THE FEDERAL GOVERNMENT
DEPARTMENT OF HEALTH AND HUMAN SERVICES
(AGENCY)

(SIGNATURE)

Wallace Chan
(NAME)

Director, Division of Cost Allocation
(TITLE)

September 30, 2008
(DATE)

HHS Representative Naomi Tamashiro
Telephone: (415) 437-7820

COST ALLOCATION PLAN 30 (CAP 30) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and compute Fees for Special Services, during 2007-08. They are to be applied only to straight time, gross salary (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	CTO
AGING:				
Balance of Department	36.04%	48.36%	na	20.24%
Title V	7.21%	1.87%	na	13.76%
ANIMAL SERVICES	42.73%	45.35%	19.11%	20.15%
BUILDING & SAFETY	36.72%	21.53%	21.91%	20.04%
CITY ADMINISTRATIVE OFFICER (OARS):				
CRA, Petroleum Admin., Proprietary, Capital Projects (Phy. Plant)	32.68%	37.64%	112.66%	19.55%
Disaster Grants Coordination	34.11%	96.38%	95.17%	19.55%
CITY ATTORNEY:				
Criminal	35.34%	17.26%	7.72%	18.54%
Direct Billed - User's Site (Proprietary Dept)	33.09%	1.82%	1.69%	18.54%
Direct Billed - In City Space	32.27%	14.73%	5.63%	18.54%
CITY CLERK:				
Elections	62.27%	82.04%	50.59%	7.56%
Land Records	37.63%	83.88%	139.27%	20.70%
COMMISSION FOR CHILDREN, YOUTH AND THEIR FAMILIES	36.71%	105.15%	91.04%	14.53%
COMMISSION ON STATUS OF WOMEN	39.95%	65.68%	19.13%	20.03%
COMMUNITY DEVELOPMENT:				
Balance of Department	36.54%	21.95%	na	20.61%
As Needed Employees	9.87%	5.07%	na	n/a
CONTROLLER:				
Direct Billed (at User's site)	36.24%	3.32%	33.85%	19.22%
Direct Billed (in City space)	41.02%	99.73%	42.37%	19.22%
CULTURAL AFFAIRS	44.52%	84.36%	5.35%	18.21%
DEPARTMENT on DISABILITY	35.42%	26.79%	45.50%	21.81%
EL PUEBLO	26.20%	266.13%	556.28%	21.68%
EMERGENCY PREPAREDNESS DEPT				
Em. Prep. Policy & Public info.	31.07%	101.23%	75.89%	25.52%
ENVIRONMENTAL AFFAIRS:				
Policy/Public Information	34.71%	55.97%	75.61%	21.86%

COST ALLOCATION PLAN 30 (CAP 30) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and compute Fees for Special Services, during 2007-08. They are to be applied only to straight time, gross salary (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	CTO
FINANCE, OFFICE OF Revenue Collections	39.13%	0.00%	12.43%	20.19%
FIRE:				
Civilian	39.49%	36.18%	12.10%	20.29%
Sworn (Firefighters)	46.46%	21.83%	23.61% a.	19.50%
			13.07% b.	
			36.68% c.	Field Support Rate, Sworn only **
Combined Dept. Admin. & Support Rate, including Field Support Rate				
GENERAL SERVICES:				
Materials Testing	38.34%	25.96%	8.43%	18.43%
Print Shop	41.42%	47.56%	9.65%	20.83%
HOUSING:				
Grant-Funded Housing	35.84%	16.90%	na	19.04%
Enforcement	37.72%	8.19%	na	19.04%
Internal Administration	34.87%	0.00%	na	19.04%
HUMAN RELATIONS COMMISSION	33.99%	31.10%	8.72%	12.70%
LIBRARY	43.37%	33.78%	21.02%	18.63%
LOS ANGELES CONVENTION CENTER	38.24%	31.35%	42.44%	21.42%
MAYOR:				
Executive/Policy	40.49%	100.26%	24.49%	10.65%
Grant Funded/Spec. Programs	43.16%	321.69%	47.57%	14.02%
Direct in City Space	36.20%	52.52%	0.00%	10.65%
NEIGHBORHOOD EMPOWERMENT	44.33%	93.38%	52.72%	15.98%
PERSONNEL:				
Custody Care (Jails)	37.91%	17.89%	14.01%	19.72%
Personnel Grant Funded/Spec. Programs	40.12%	22.52%	15.58%	19.72%
PLANNING	37.04%	41.56%	36.95%	20.95%
POLICE:				
Civilian	41.67%	17.07%	18.11%	24.00%
Sworn	47.61%	22.63%	3.50% a.	27.69%
			26.08% b.	
			29.58% c.	Field Support Rate, Sworn only **
Combined Dept. Admin. & Support Rate, including Field Support Rate				

****NOTE:** For Fire and Police, the Field Support rate (line b.) captures overhead costs that are in addition to other Administrative and Support Costs. It has been added to the Department Administration rate on this schedule. Please use this combined rate (line c.) for sworn positions in field operations. For other, non-field sworn positions, do NOT use the Field Support rate; use only the regular Department Administration rate (line a.), together with the other (Fringe, Central Service and CTO) rates.

COST ALLOCATION PLAN 30 (CAP 30) - INDIRECT COST RATES WITH CARRY FORWARD

The rates below are to be used to prepare grant applications, contracts and billings for grant activities, and compute Fees for Special Services, during 2007-08. They are to be applied only to straight time, gross salary (with CTO). When only net salaries (without CTO) are available, convert net salaries to gross salaries using the CTO rate. For rates applicable to **part time** or **overtime** salaries, please contact CAP staff. **Note: You MUST adjust rates to deduct directly billed costs.** See list-Attachment C and Instructions-Attachment

DEPARTMENT/Cost Center	Fringe Benefits	Central Services	Department Administration & Support	CTO
PUBLIC WORKS, Board Office:				
Public Services	39.25%	70.06%	2.08%	18.30%
PW - Contract Administration:				
Construction Inspection	37.48%	29.25%	16.98%	19.42%
PW - Engineering:				
Stormwater Facilities Engineering	36.76%	18.78%	17.42%	19.61%
Wastewater Facilities Engineering	37.03%	19.07%	17.63%	19.61%
Privately Financed & Assessment	37.31%	32.13%	18.62%	19.61%
Street Improvements	37.18%	17.75%	18.41%	19.61%
Municipal Facilities	36.13%	21.33%	18.80%	19.61%
General Mapping & Survey	37.80%	20.24%	17.19%	19.61%
PW - Sanitation				
Solid Waste Program	46.27%	118.53%	8.45%	21.65%
Wastewater/Stormwater Division	39.49%	30.54%	7.19%	21.65%
PW - Street Lighting	37.86%	46.08%	35.45%	20.04%
PW - Street Services	42.20%	79.19%	21.72%	24.84%
Street Maint General				
Street Use Inspection				
Lot Cleaning				
Street Tree Division				
Street Maint Administration				
ST MNT Facilities Maintenance				
Street Maint Executive				
Resurf & Reconstr Div				
Special Proj Constr Div				
Street Improvement Div				
RECREATION & PARKS	52.62%	40.42%	14.97%	20.15%
TRANSPORTATION	44.23%	40.33%	15.34%	23.07%
TREASURER				
Cash Management & Street Bonds	36.94%	69.86%	126.28%	18.70%
Zoo Department	40.83%	33.07%	33.41%	21.82%

These ten Division Overhead rates, calculated by St. Services, assume that Equipment is billed as a direct cost. When such is done, the Central Services rate will be reduced to exclude the directly billed equipment.

Instructions for Using Indirect Cost Rates

Modifying the rates. Usually departments use the CAP rates as published; however, situations may arise necessitating revision of the rates. **Your Department's CAP rate should be modified if your Department directly charges to a grant or fee payer any of the indirect costs, or if the grantor or fee payer directly provides any of the services listed on Attachment C.** For example, if you purchase a computer and the total cost is paid directly by a fee payer or grantor, your CAP rate must be reduced to avoid double billing for the directly charged item(s). This means: if the entity you are billing provides office space, telephone service, computers, vehicles, or any other item listed on Attachment C, your rates must be adjusted to exclude those items.

An example of the necessity for rate modification is the Police Department's bill to the Airports Department. Airports provides space, utilities, telephones and equipment for Police Department staff at the Airport substation. To properly bill the Airports Department for law enforcement services at this site, the Police Department indirect cost rates are revised to exclude the building use, building lease, equipment use, and telephone line items.

Contact the CAP Office for adjusted rates if any cost listed in Attachment C is directly billed to grants or fees, or if any of the listed services are provided by your client.

Using the rates as published. The CAP indirect cost rates are computed based on "gross annual salaries" **excluding** overtime. (For rates applicable to overtime salaries, please contact the CAP office.) Compensated time off (CTO) is included in this gross salaries base. (See Attachment C paragraph 5 for a definition of CTO.) The CAP Fringe Benefits, Central Services, and Department Administration indirect cost rates, therefore, must be applied to salaries which include CTO and exclude overtime. Please refer to the example below, where

Fringe Benefits Rate	=	28.10%	of Gross Salaries
Central Services Rate	=	39.77%	of Gross Salaries
Department Administration & Support Rate	=	18.87%	of Gross Salaries
Compensated Time Off Rate	=	16.26%	of Net Salaries

1. Assume Gross Salaries = \$ 1,000.00 *(Gross Salaries are salaries for straight time worked plus Compensated Time Off.)*

Given the above-listed indirect cost rates, and assuming your CTO costs are included in your salaries as billed, total indirect costs are calculated below:

a.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost
b.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost
c.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost
Sum of (a + b + c) =								\$ 867.40

2. Assume Net Salaries = \$ 860.14 *(Net Salaries are salaries for straight time worked, not including Compensated Time Off. Such net salaries would typically be accumulated through direct charges in a cost accounting system.)*

Convert net salaries to gross salaries by adding CTO % of Net:

a.	Net Salary times CTO %:	\$	860.14	x	16.26%	=	\$	139.86	= CTO Amount
b.	Net Salary plus CTO amt:	\$	860.14	+	\$	139.86	=	\$	1,000.00 = Gross Salaries
c.	\$	1,000	x	28.10%	=	\$	281.00	Fringe Benefit Cost	
d.	\$	1,000	x	39.77%	=	\$	397.70	Central Service Cost	
e.	\$	1,000	x	18.87%	=	\$	188.70	Department Administration & Support Cost	
Sum of (a + b + c) =								\$	867.40

REMINDER: CTO rates are to be used only when paid time off such as sick and vacation time are not directly charged to a special service or grant project. Please see Attachment C, paragraph 5 for further information.

COST ALLOCATION PLAN 30 INDIRECT COSTS INCLUDED IN RATE CALCULATIONS**1. Fringe Benefits Rate includes the department's share of the Citywide costs of:**

Retirement (Civilians)	Employee Assistance	Union Sponsored Benefits
Pensions (Fire/Police Sworn)	Ordinance Life Insurance	Unused Sick/Vacation Payout
FLEX Benefit Program	Medicare	Unemployment Insurance
- Health Insurance	Social Security	Workers' Compensation
- Dental Insurance	Part Time/Seasonal/Temporary	Hiring Hall Fringe
- Basic Life Insurance	(PST) 457 Retirement Plan	

2. Central Services Rate includes the department's share of the Citywide costs of:

Building Leases [GSD & Spec. Funds]	Equipment Use Allowance (Equipment costing \$5,000 & above)	General City Purposes [League Dues and audits]
Building Depreciation	Equipment Exp. Under \$5,000 (Equipment Costing under \$5,000)	Liability Claims
Computer Assets Depreciation (items costing \$5,000 & above)	Gas (Natural Gas Utility) [GSD]	Petroleum Products [GSD]
Communications Lease (Telephone bill)	Insurance on bond-financed assets	Vehicle Depreciation
		Water & Electricity
		Emergency Operations Organization
City Administrative Officer (CAO, formerly OARS)	COUNCIL & CLA	MAYOR
Budget		Department Liaison & Grants Citywide Coordinator
Employee Relations & Living Wage	EMPLOYEE RELATIONS BOARD	
Gen. Support (Finance, Systems, Productivity & Risk Management)		PERSONNEL
Dept Liaison/ Mgt. Analysis	ENVIRONMENTAL AFFAIRS	Workers' Compensation & Safety
Municipal Facilities Projects	Environmental Coordination	Personnel Balance of Dept.
CITY ATTORNEY	EMERGENCY PREPAREDNESS	PUBLIC WORKS
Civil Liability	Emergency Preparedness Coordinator	Board Office
Employee Relations		Contract Admin:
Municipal Counsel / Legis. Svcs.		Office of Contract Compliance
Land Use	FINANCE	Engineering: General Engineering
Police Division	Citywide Collections	
CITY CLERK	GENERAL SERVICES	TREASURER
Council and Public Services	Building Services	Custody & Disbursement & Debt Administration
Records Management	Construction Division	
	Fleet Services	
	Assets Management (Leasing & Real Estat	PENSIONS: OVERHEADS ALLOCATED
CITY ETHICS COMMISSION	Mail & Messenger	
	Parking Services	TO PENSIONS. (Other Pension costs included in Fringe Benefits)
CONTROLLER	Supply Services	
Accounts Payable		
Budget & General Acctg.		CERS: OVERHEADS ALLOCATED
CAP	INFORMATION TECHNOLOGY	
FMIS	AGENCY (ITA)	TO CERS. (Other CERS costs included in Fringe Benefits)
Internal Audit	IT Services	
Payroll (incl. Fiscal Systems)	Communications Division	
Single Audit	Telecommunications (PPEB)	
Workers' Compensation		

INDIRECT COSTS INCLUDED IN CAP 30 RATE CALCULATIONS (continued)

3. Department Administration and Support Rate includes costs of support functions within a department:

The rate includes expenditures which: --- *benefit the department as a whole*
 --- *are NOT directly charged to a grant or fee program*
 --- *are NOT line operations.*

Expenditures include those of:

Accounting staff	Department Management (Gen. Mgr. & Asst. Gen. Mgrs)
Budget staff	Clerical Staff/word processing staff serving the entire department.
Payroll staff	Systems Staff (if serving the whole department, not a special project)
Personnel & training staff	Warehouse/inventory/stores staff
Inventory staff	Vehicle maintenance staff (Police & Fire only)

NOTE: The support costs discussed here must conform to Federal definitions of allowable overhead costs and are not necessarily the same as the City's General Administration and Support Program (GASP) in a departmental budget.

4. Division Overhead Rates include the costs of support functions within divisions:

The rate includes the salary and expenses of division heads, section supervisors, and other support within divisions which are not included in the Department Administration costs discussed above. For example, within the Bureau of Engineering, the City Engineer, Deputies, their secretaries and the Administration Division are included in the Department Administration indirect cost rate. Within operating divisions, division heads, assistant division heads, and their secretaries and division support staff are NOT included in the Department Administration rate.

To recover the overhead costs within a division, a department or bureau should directly charge the time of the division head, secretary, assistant division head, and other division support services to a project, or calculate an indirect cost rate to recover their costs. Please work with the CAP office when calculating such rates, to insure that Division Overhead costs do not overlap Department Administration costs.

5. Compensated Time Off Rate includes the salary paid to employees who are on paid leave such as:

Sick Leave	Jury Duty	Floating Holiday
Vacation	Bereavement leave	Injury on Duty
Holiday	Preventive Medicine	
Military Leave	Workers' Compensation (salary continuance	
Family Illness	paid by the employing department.)	

Special Note regarding CTO:

CTO rates are to be used only when sick, vacation, and other CTO hours are not directly charged to a fee or grant project. For employees who charge only part of their hours worked to a grant, their time off is usually not being charged to the project, so the cost of that time off must be recovered using the CTO Rate. For employees whose entire annual salary is charged to a fee or grant, CTO is recovered as they take their time off, and the CTO Rate is not to be used. When the CTO Rate is applied to net salaries, the amount derived is added to net salaries to create gross salaries. The derived gross salaries becomes the base against which the fringe benefit rate and other indirect cost rates described above are applied.

6. OTHER DEFINITIONS

- a. Gross Salaries - Total annual salaries, which include pay for time worked AND compensated time off.
- b. Net Salaries - Pay for time worked only, not including compensated time off.

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2007-2008 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	06-07 AVG. SALARY	AVG BI-WKLY SALARY 07/08 including 3.5% COLA	HOURLY RATE	IND. FIELD @ 130.77% (CAP 30)	IND. ADMIN @ 104.69% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY	07/08 Incremental Cost to a PO II 6- month Salary
2214-1	POLICE OFFICER I		\$2,131.27	2,205.86	27.57	36.06	28.87	28,787	57,573	
2214-2	POLICE OFFICER II		\$2,956.45	3,059.93	38.25	50.02	40.04	39,932	79,864	0
2214-2G	POLICE OFFICER II	G	\$3,366.40	3,484.22	43.55	56.95	45.60	45,469	90,938	\$ 5,537
2214-2H	POLICE OFFICER II	H	\$4,386.53	4,540.06	56.75	74.21	59.41	59,248	118,496	\$ 19,316
2214-2K	POLICE OFFICER II	K	\$3,661.58	3,789.74	47.37	61.95	49.59	49,456	98,912	\$ 9,524
2214-2L	POLICE OFFICER II	L	\$3,492.18	3,614.41	45.18	59.08	47.30	47,168	94,336	\$ 7,236
2214-2M	POLICE OFFICER II	M	\$3,571.82	3,696.83	46.21	60.43	48.38	48,244	96,487	\$ 8,312
2214-3	POLICE OFFICER III		\$3,340.44	3,457.36	43.22	56.51	45.24	45,118	90,237	\$ 5,186
2214-3A	POLICE OFFICER III	A	\$3,643.08	3,770.59	47.13	61.63	49.34	49,206	98,412	\$ 9,274
2214-3B	POLICE OFFICER III	B	\$3,533.90	3,657.59	45.72	59.79	47.86	47,732	95,463	\$ 7,799
2214-3C	POLICE OFFICER III	C	\$3,482.60	3,604.49	45.06	58.92	47.17	47,039	94,077	\$ 7,107
2214-3D	POLICE OFFICER III	D	\$3,629.94	3,756.99	46.96	61.41	49.16	49,029	98,057	\$ 9,097
2214-3E	POLICE OFFICER III	E	\$3,607.42	3,733.68	46.67	61.03	48.86	48,725	97,449	\$ 8,792
2214-3F	POLICE OFFICER III	F	\$3,566.69	3,691.52	46.14	60.34	48.31	48,174	96,349	\$ 8,242
2214-3G	POLICE OFFICER III	G	\$4,049.32	4,191.05	52.39	68.51	54.85	54,693	109,386	\$ 14,761
2214-3J	POLICE OFFICER III	J	\$4,665.60	4,828.90	60.36	78.93	63.19	63,017	126,034	\$ 23,085
2214-3K	POLICE OFFICER III	K	\$3,941.14	4,079.08	50.99	66.68	53.38	53,232	106,464	\$ 13,300
2214-3O	POLICE OFFICER III	O	\$3,529.48	3,653.01	45.66	59.71	47.80	47,672	95,344	\$ 7,740
2214-3P	POLICE OFFICER III	P	\$3,577.44	3,702.65	46.28	60.52	48.45	48,320	96,639	\$ 8,388
2214-3+1	POLICE OFFICER III	R	\$3,633.30	3,760.47	47.01	61.47	49.21	49,074	98,148	\$ 9,142
2214-3S	POLICE OFFICER III	S	\$3,852.27	3,987.10	49.84	65.17	52.18	52,032	104,063	\$ 12,100
2214-3T	POLICE OFFICER III	T	\$3,614.32	3,740.82	46.76	61.15	48.95	48,818	97,635	\$ 8,886
2214-3V	POLICE OFFICER III	V	\$3,626.40	3,753.32	46.92	61.35	49.12	48,981	97,962	\$ 9,049
2214-3W	POLICE OFFICER III	W	\$3,639.38	3,766.76	47.08	61.57	49.29	49,156	98,312	\$ 9,224
2217	POLICE SPECIALIST		\$2,370.40	2,453.36	30.67	40.10	32.11	32,016	64,033	\$ (7,916)
2223-1	POLICE DETECTIVE I		\$3,545.95	3,670.06	45.88	59.99	48.03	47,894	95,789	\$ 7,962
2223-1K	POLICE DETECTIVE I	K	\$4,196.00	4,342.86	54.29	70.99	56.83	56,674	113,349	\$ 16,742
2223-1L	POLICE DETECTIVE I	L	\$3,733.14	3,863.80	48.30	63.16	50.56	50,423	100,845	\$ 10,491
2223-2	POLICE DETECTIVE II		\$3,815.42	3,948.96	49.36	64.55	51.68	51,534	103,068	\$ 11,602
2223-2K	POLICE DETECTIVE II	K	\$4,453.96	4,609.85	57.62	75.35	60.33	60,159	120,317	\$ 20,226
2223-2L	POLICE DETECTIVE II	L	\$4,085.34	4,228.33	52.85	69.12	55.33	55,180	110,359	\$ 15,248
2223-2Y	POLICE DETECTIVE II	Y	\$4,077.60	4,220.32	52.75	68.99	55.23	55,075	110,150	\$ 15,143

**WAGES AND COUNT
SWORN EMPLOYEES
FY 2007-2008 - INCLUDES ANNUAL SALARY INCREASE**

CLASS CODE	TITLE	BONUS	06-07 AVG. SALARY	AVG BI-WKLY SALARY 07/08 including 3.5% COLA	HOURLY RATE	IND. FIELD @ 130.77% (CAP 30)	IND. ADMIN @ 104.69% (CAP 30)	SIX MONTH SALARY	ANNUAL SALARY	07/08 Incremental Cost to a PO II 6- month Salary
2223-3	POLICE DETECTIVE III		\$4,196.23	4,343.10	54.29	70.99	56.83	56,677	113,355	\$ 16,745
2223-3L	POLICE DETECTIVE III	L	\$4,429.60	4,584.64	57.31	74.94	60.00	59,829	119,659	\$ 19,897
2227-1	POLICE SERGEANT I		\$3,780.28	3,912.59	48.91	63.96	51.20	51,059	102,119	\$ 11,127
2227-1M	POLICE SERGEANT I	M	\$4,304.77	4,455.44	55.69	72.83	58.30	58,143	116,287	\$ 18,211
2227-1T	POLICE SERGEANT I	T	\$4,404.48	4,558.64	56.98	74.52	59.66	59,490	118,980	\$ 19,558
2227-2	POLICE SERGEANT II		\$4,013.67	4,154.15	51.93	67.90	54.36	54,212	108,423	\$ 14,280
2227-2G	POLICE SERGEANT II	G	\$4,788.80	4,956.41	61.96	81.02	64.86	64,681	129,362	\$ 24,749
2227-2K	POLICE SERGEANT II	K	\$4,630.40	4,792.46	59.91	78.34	62.72	62,542	125,083	\$ 22,610
2227-2S	POLICE SERGEANT II	S	\$4,542.40	4,701.38	58.77	76.85	61.52	61,353	122,706	\$ 21,421
2227-2T	POLICE SERGEANT II	T	\$4,308.37	4,459.16	55.74	72.89	58.35	58,192	116,384	\$ 18,260
2227-2X	POLICE SERGEANT II	X	\$4,517.31	4,675.42	58.44	76.43	61.18	61,014	122,028	\$ 21,082
2232-1	POLICE LIEUTENANT I		\$4,433.51	4,588.68	57.36	75.01	60.05	59,882	119,765	\$ 19,950
2232-1Q	POLICE LIEUTENANT I	Q	\$4,933.60	5,106.28	63.83	83.47	66.82	66,637	133,274	\$ 26,705
2232-1Y	POLICE LIEUTENANT I	Y	\$5,056.80	5,233.79	65.42	85.55	68.49	68,301	136,602	\$ 28,369
2232-2	POLICE LIEUTENANT II		\$4,698.82	4,863.28	60.79	79.50	63.64	63,466	126,932	\$ 23,534
2232-2G	POLICE LIEUTENANT II	G	\$5,065.60	5,242.90	65.54	85.70	68.61	68,420	136,840	\$ 28,488
2232-2Y	POLICE LIEUTENANT II	Y	\$5,208.00	5,390.28	67.38	88.11	70.54	70,343	140,686	\$ 30,411
2244-1	POLICE CAPTAIN I		\$4,864.48	5,034.74	62.93	82.30	65.89	65,703	131,407	\$ 25,771
2244-2	POLICE CAPTAIN II		\$5,488.62	5,680.72	71.01	92.86	74.34	74,133	148,267	\$ 34,201
2244-3	POLICE CAPTAIN III		\$5,760.67	5,962.29	74.53	97.46	78.02	77,808	155,616	\$ 37,876
2251	POLICE COMMANDER		\$6,376.85	6,600.04	82.50	107.89	86.37	86,131	172,261	\$ 46,198
2251-Y	POLICE COMMANDER	Y	\$6,783.20	7,020.61	87.76	114.76	91.87	91,619	183,238	\$ 51,687
2262-1	POLICE DEPUTY CHIEF I		\$6,973.50	7,217.57	90.22	117.98	94.45	94,189	188,379	\$ 54,257
2262-1Y	POLICE DEPUTY CHIEF I	Y	\$7,089.60	7,337.74	91.72	119.94	96.02	95,757	191,515	\$ 55,825
2262-2	POLICE DEPUTY CHIEF II		\$7,684.80	7,953.77	99.42	130.01	104.08	103,797	207,593	\$ 63,865

THIS PAGE HAS BEEN ADDED BY COMMISSION ON STATE MANDATES (CSM) STAFF FOR CLARIFICATION

SUPPLEMENTAL MATERIAL FILED ON OCTOBER 10, 2012

IRC# 12-4499-I-02

Police Officer Procedural Bill of Rights (POBOR)

City of Los Angeles, Claimant

The contents of this document were submitted to CSM on October 10, 2012 as five separate files. Below is a table of contents.

FILE #1: POBOR Claiming Instructions dated October 2, 2000, pages 2-17

FILE #2: POBOR Claim Forms (FY03-04 to 05-06), pages 18-23

FILE #3: POBOR Claiming Instructions dated June 3, 2008, pages 24-49

FILE #4: POBOR Claiming Instructions dated October 5, 2009, pages 50-84

FILE #5: POBOR Claim Forms (FY06-07 to 07-08), pages 85-98

OFFICE OF THE STATE CONTROLLER

STATE MANDATED COSTS CLAIMING INSTRUCTIONS NO. 2000-11

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (LOCAL AGENCIES)

OCTOBER 2, 2000

In accordance with Government Code Section (GC) 17561, eligible claimants may submit claims to the State Controller's Office (SCO) for reimbursement of costs incurred for state mandated cost programs. The following are claiming instructions and forms that eligible claimants will use for the filing of claims for Peace Officers Procedural Bill of Rights (PPBR). These claiming instructions are issued subsequent to adoption of the program's parameters and guidelines (P's & G's) by the Commission on State Mandates (COSM).

On November 30, 1999, the COSM determined that the PPBR program establishes costs mandated by the state according to the provisions listed in the attached P's & G's. For your reference, the P's & G's are included as an integral part of the claiming instructions.

GC Sections 3300 through 3310, as added and amended by Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990, provide procedural protection for peace officers employed by local agencies 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. This applies to peace officers classified as permanent employees, peace officers who serve at the pleasure of the local agency, and are terminable without cause ("at will" employees), and peace officers on probation who have not reached permanent status.

Eligible Claimants

Any city, county, city and county, or special district employing peace officers pursuant to Penal Code Section 830 and incurring increased costs as a direct result of this mandate is eligible to claim reimbursement of these costs.

Filing Deadlines

Reimbursement claims for the 1994-95 through 1999-00 fiscal years must be filed with the SCO. **Claims must be delivered or postmarked on or before January 30, 2001.** Annually thereafter, having received payment for an estimated claim, the claimant must file a reimbursement claim by January 15th of the following fiscal year. Claims filed after the deadline will be reduced by a late penalty of 10%, not to exceed \$1,000. In order for a claim to be considered properly filed, it must include any specific supporting documentation requested in the instructions. **Claims filed more than one year after the deadline, or without the requested supporting documentation, will not be accepted.**

Estimated claims filed with the SCO must be postmarked by January 15th of the fiscal year in which costs will be incurred. However, 2000-01 estimated claims must be filed with the SCO and postmarked by **January 30, 2001**. Timely filed claims will be paid before late claims.

Minimum Claim Cost

GC § 17564(a) provides that no claim shall be filed pursuant to § 17561 unless such a claim exceeds \$200 per program per fiscal year. However, any county as the fiscal agent for special districts, may submit a combined claim in excess of \$200 on behalf of districts within the county even if an individual claim does not exceed \$200. A combined claim must show the individual claim costs for each eligible district. Once a combined claim is filed, all subsequent fiscal years relating to the same mandate must be filed in a combined form. The county receives the reimbursement payment and is responsible for disbursing funds to each participating district. A district may withdraw from the combined claim form by providing the county and the SCO with a written notice of its intent to file a separate claim at least 180 days prior to the deadline for filing the claim. Claims should be rounded to the nearest dollar.

Estimated Claims

Unless otherwise specified in the claiming instructions, local agencies are not required to provide cost schedules and supporting documents with an estimated claim if the estimated amount does not exceed the previous fiscal year's actual costs by more than 10%. The claimant can simply enter the estimated amount on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, the claimant must complete supplemental claim forms to support their estimated costs as specified for the program to explain the reason for the increased costs. If no explanation supporting the higher estimate is provided with the claim, it will automatically be adjusted to 110% of the previous fiscal year's actual costs.

Reimbursement Claims

Initial reimbursement claims will only be reimbursed to the extent that expenditures can be supported and if such information is unavailable, claims will be reduced. In addition, ongoing reimbursement claims must be supported by documentation as evidence of the expenditures. Examples of documentation may include, but are not limited to, employee time records that identify mandate activities, payroll records, invoices, receipts, contracts, travel expense vouchers, purchase orders, and caseload statistics.

Audit of Costs

All claims submitted to the SCO are reviewed to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with the P's & G's adopted by the COSM. If any adjustments are made to a claim, a "Notice of Claim Adjustment," specifying the claim component adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within 30 days after payment of the claim.

On-site audits will be conducted by the SCO as deemed necessary. Accordingly, all documentation to support actual costs claimed must be retained for a period of two years after the end of the calendar year in which the reimbursement claim was filed or amended regardless of the year of costs incurred. When no funds are appropriated for initial claims at the time the claim is filed, supporting documents must be retained for two years from the date of initial payment of the claim. Claim documentation shall be made available to the SCO on request.

Retention of Claiming Instructions

The claiming instructions and forms in this package should be retained permanently in your **Mandated Cost Manual** for future reference and use in filing claims. These forms should be duplicated to meet your filing requirements. You will be notified of updated forms or changes to claiming instructions as necessary.

For your reference, these and future mandated costs claiming instructions and forms can be found on the Internet at www.sco.ca.gov/ard/local/locreim/index.htm.

Address for Filing Claims

Submit a signed, original form FAM-27, Claim for Payment, and all other forms and supporting documents (no copies necessary) to:

If delivered by
U.S. Postal Service:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

If delivered by
other delivery services:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

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 1989, Chapter 1165; and Statutes of 1990, Chapter 675

And filed December 21, 1995;

By the City of Sacramento, Claimant.

NO. CSM – 4499

**ADOPTION OF
PARAMETERS AND
GUIDELINES PURSUANT
TO GOVERNMENT CODE
SECTION 17557 AND
TITLE 2, CALIFORNIA
CODE OF REGULATIONS,
SECTION 1183.12**

(Adopted on July 27, 2000)

ADOPTED PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Parameters and Guidelines on July 27, 2000.

PAULA HIGASHI, Executive Director

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Adopted: July 27, 2000

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

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 (POBAR).

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.

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

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.

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

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."

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 \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

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.
3. Updating the status of the POBAR cases.

B. 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 (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 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.

C. Interrogations

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).)

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.

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 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.

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 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 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 cost of tape copying.

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; cost of processing, service and retention of copies.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment (Gov. Code, §§ 3305 and 3306):

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.
- (b) If an adverse comment *is* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:
 - Providing notice of the 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 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.
- (c) If an adverse comment *is not* obtained in connection with a promotional examination, then school 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.

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 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.
- (b) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:

- Providing notice of the 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 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.
- (c) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties obtained are entitled to reimbursement for:
- Providing notice of the adverse comment: and
 - 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.

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 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.
- (b) 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:
- Providing notice of the 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 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.
- (c) 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:
- Providing notice of the adverse comment;
 - Providing an opportunity to respond to the adverse comment within 30 days;
and
 - 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.

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.

V. CLAIM PREPARATION AND SUBMISSION

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.

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State Controller's Office

Mandated Cost State Mandates

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS			For State Controller Use Only		Program
			(19) Program Number 00187		187
			(20) Date Filed ____/____/____		
			(21) LRS Input ____/____/____		
L A B E L H E R E	(01) Claimant Identification Number		Reimbursement Claim Data		
	(02) Claimant Name		(22) PPBR-1, (03)(a)		
	County of Location		(23) PPBR-1, (03)(b)		
	Street Address or P.O. Box Suite		(24) PPBR-1, (03)(c)		
	City State Zip Code		(25) PPBR-1, (03)(d)		
			(26) PPBR-1, (04)(1)(e)		
Type of Claim		Estimated Claim		Reimbursement Claim	
		(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input type="checkbox"/>	(27) PPBR-1, (04)(2)(e)	
		(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28) PPBR-1, (04)(3)(e)	
		(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29) PPBR-1, (04)(4)(e)	
Fiscal Year of Cost		(06) 20____/20____	(12) 20____/20____	(30) PPBR-1, (06)	
Total Claimed Amount		(07)	(13)	(31) PPBR-1, (07)	
Less: 10% Late Penalty, not to exceed \$1,000			(14)	(32) PPBR-1, (09)	
Less: Prior Claim Payment Received			(15)	(33) PPBR-1, (10)	
Net Claimed Amount			(16)	(34)	
Due from State		(08)	(17)	(35)	
Due to State			(18)	(36)	
<p>(37) CERTIFICATION OF CLAIM</p> <p>In accordance with the provisions of Government Code §17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> <p>Signature of Authorized Officer _____ Date _____</p> <p>_____ Type or Print Name _____ Title _____</p> <p>(38) Name of Contact Person for Claim _____ Telephone Number () - Ext. _____</p> <p>_____ E-Mail Address _____</p>					

Form FAM-27 (Revised 09/03)

State Controller's Office

Mandated Cost Mandate

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS Certification Claim Form Instructions	FORM FAM-27
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- (01) Enter the payee number assigned by the State Controller's Office.
- (02) Enter your Official Name, County of Location, Street or P. O. Box address, City, State, and Zip Code.
- (03) If filing an estimated claim, enter an "X" in the box on line (03) Estimated.
- (04) If filing a combined estimated claim on behalf of districts within the county, enter an "X" in the box on line (04) Combined.
- (05) If filing an amended estimated claim, enter an "X" in the box on line (05) Amended.
- (06) Enter the fiscal year in which costs are to be incurred.
- (07) Enter the amount of the estimated claim. If the estimate exceeds the previous year's actual costs by more than 10%, complete form PPBR-1 and enter the amount from line (11). If more than one form is completed due to multiple department involvement in this mandate, add line (11) of each form.
- (08) Enter the same amount as shown on line (07).
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing a combined reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.
- (13) Enter the amount of the reimbursement claim from form PPBR-1, line (11). The total claimed amount must exceed \$1,000.
- (14) Reimbursement claims must be filed by January 15 of the following fiscal year in which costs were incurred or the claims shall be reduced by a late penalty. Enter zero if the claim was timely filed, otherwise, enter the product of multiplying line (13) by the factor 0.10 (10% penalty), or \$1,000, whichever is less.
- (15) If filing a reimbursement claim and have previously filed a claim for the same fiscal year, enter the amount received for the claim. Otherwise, enter a zero.
- (16) Enter the result of subtracting line (14) and line (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim e.g. PPBR-1, (03)(a), means the information is located on form PPBR-1, block (03), line (a). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the payment process.**
- (37) Read the statement "Certification of Claim." If it is true, the claim must be dated, signed by the agency's authorized officer, and must include the person's name and title, typed or printed. **Claims cannot be paid unless accompanied by an original signed certification. (To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the person to contact if additional information is required.

SUBMIT A SIGNED ORIGINAL, AND A COPY OF FORM FAM-27, WITH ALL OTHER FORMS AND SUPPORTING DOCUMENTS TO:

Address, if delivered by U.S. Postal Service:

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

Address, if delivered by other delivery service:

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

State Controller's Office

Mandated Cost Manual

Program <div style="font-size: 24pt; font-weight: bold;">187</div>	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY	FORM PPBR-1									
<table style="width: 100%;"> <tr> <td style="width: 50%;">(01) Claimant</td> <td style="width: 30%;">(02) Type of Claim</td> <td style="width: 20%;">Fiscal Year</td> </tr> <tr> <td></td> <td>Reimbursement <input type="checkbox"/></td> <td></td> </tr> <tr> <td></td> <td>Estimated <input type="checkbox"/></td> <td>20__/20__</td> </tr> </table>			(01) Claimant	(02) Type of Claim	Fiscal Year		Reimbursement <input type="checkbox"/>			Estimated <input type="checkbox"/>	20__/20__
(01) Claimant	(02) Type of Claim	Fiscal Year									
	Reimbursement <input type="checkbox"/>										
	Estimated <input type="checkbox"/>	20__/20__									
Claim Statistics											
(03) (a) Number of cases in process at the beginning of the fiscal year											
(b) Number of new cases added during the fiscal year											
(c) Number of cases completed or closed during the fiscal year											
(d) Number of cases in process at the end of the fiscal year											
Direct Costs											
	Object Accounts										
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Travel and Training	(e) Total						
1. Administrative Activities											
2. Administrative Appeal											
3. Interrogations											
4. Adverse Comment											
(05) Total Direct Costs											
Indirect Costs											
(06) Indirect Cost Rate	[From ICRP]				%						
(07) Total Indirect Costs	[Line (06) x line (05)(a)] or [line (06) x (line (05)(a) + line (05)(b))]										
(08) Total Direct and Indirect Costs	[Line (05)(e) + line (07)]										
Cost Reduction											
(09) Less: Offsetting Savings, if applicable											
(10) Less: Other Reimbursements, if applicable											
(11) Total Claimed Amount	[Line (08) - (line (09) + line (10))]										

Revised 09/03

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS Certification Claim Form Instructions	FORM PPBR-1
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- (01) Enter the name of the claimant.
- (02) Type of Claim. Check a box, Reimbursement or Estimated, to identify the type of claim being filed. Enter the fiscal year of costs
- From PPBR-1 must be filed for a reimbursement claim. Do not complete form PPBR-1 if you are filing an estimated claim and the estimate does not exceed the previous fiscal year's actual costs by more than 10%. Simply enter the amount of the estimated claim on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, form PPBR-1 must be completed and a statement attached explaining the increased costs. Without this information the estimated claim will automatically be reduced to 110% of the previous fiscal year's actual costs.
- (03) (a) Enter the number of cases that were processed at the beginning of the fiscal year.
 (b) Enter the number of new cases that were added during the fiscal year.
 (c) Enter the number of cases that were completed or closed during the fiscal year.
 (d) Enter the number of cases that were in process at the end of the fiscal year.
- (04) Reimbursable Components. For each reimbursable component, enter the total from form PPBR-2, line (05), columns (d), (e), (f), and (g) to form PPBR-1, block (04) columns (a), (b), (c), and (d) in the appropriate row. Total each row.
- (05) Total Direct Costs. Total columns (a) through (e).
- (06) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (07) Total Indirect Costs. If the 10% flat rate is used for indirect costs, multiply Total Salaries, line (05)(a), by the Indirect Cost Rate, line (06). If an ICRP is submitted and both salaries and benefits were used in the distribution base for the computation of the indirect cost rate, then multiply the sum of Total Salaries, line (05)(a), and Total Benefits, line (05)(b), by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (08) Total Direct and Indirect Costs. Enter the sum of Total Direct Costs, line (05)(e), and Total Indirect Costs, line (07).
- (09) Less: Offsetting Savings, if applicable. Enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (10) Less: Other Reimbursements, if applicable. Enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, which reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (11) Total Claimed Amount. Subtract the sum of Offsetting Savings, line (09), and Other Reimbursements, line (10), from Total Direct and Indirect Costs, line (08). Enter the remainder on this line and carry the amount forward to form FAM-27, line (07) for Estimated Claim or line (13) for the Reimbursement Claim.

State Controller's Office

Mandated Cost Manual

Program <div style="font-size: 24pt; font-weight: bold;">187</div>	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS COMPONENT/ACTIVITY COST DETAIL	FORM PPBR-2														
<div style="display: flex; justify-content: space-between;"> (01) Claimant (02) Fiscal Year Costs Were Incurred </div>																
<p>(03) Reimbursable Component: Check only one box per form to identify the component being claimed.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="checkbox"/> Administrative Activities </div> <div style="text-align: center;"> <input type="checkbox"/> Administrative Appeal </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> <input type="checkbox"/> Interrogations </div> <div style="text-align: center;"> <input type="checkbox"/> Adverse Comment </div> </div>																
<p>(04) Description of Expenses: Complete columns (a) through (g).</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;">(a) Employee Names, Job Classifications, Functions Performed, and Description of Services and Supplies</th> <th style="width: 10%;">(b) Hourly Rate or Unit Cost</th> <th style="width: 10%;">(c) Hours Worked or Quantity</th> <th style="width: 10%;">(d) Salaries</th> <th style="width: 10%;">(e) Benefits</th> <th style="width: 10%;">(f) Services and Supplies</th> <th style="width: 10%;">(g) Travel and Training</th> </tr> </thead> <tbody> <tr> <td style="height: 400px;"></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			(a) Employee Names, Job Classifications, Functions Performed, and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Services and Supplies	(g) Travel and Training							
(a) Employee Names, Job Classifications, Functions Performed, and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Services and Supplies	(g) Travel and Training										
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> (05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ____ of ____ </div>																

Revised 09/03

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS CLAIM SUMMARY Instructions	FORM PPBR-2
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- (01) Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Components. Check the box that indicates the cost component being claimed. Check only one box per form. A separate form PPBR-2 shall be prepared for each applicable component.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the component activity box "checked" in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, fringe benefits, supplies used, contract services, etc. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit shall be from the date of initial payment of the claim. Such documents shall be made available to the State Controller's Office on request.

Object/ Sub object Accounts	Columns							Submit these supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	
Salaries	Employee Name Title	Hourly Rate	Hours Worked	Salaries = Hourly Rate x Hours Worked				
Benefits	Activities Performed	Benefit Rate	Hours Worked		Benefits = Benefit Rate x Salaries			
Services and Supplies	Name of Contractor	Hourly Rate	Hours Worked Inclusive Dates of Service			Cost = Hourly Rate x Hours Worked		Invoice
Contract Services	Specific Tasks Performed							
Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used		
Travel and Training	Purpose of Trip Name and Title	Per Diem Rate	Days				Rate x Days or Miles	
Travel	Departure and Return Date	Mileage Rate	Miles				Total Travel Cost	
Training	Employee Name Title	Travel Cost	Travel Mode					
			Dates Attended				Registration Fee	

- (05) Total line (04), columns (d), (e), (f), and (g) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the component costs, number each page. Enter totals from line (05), columns (d), (e), (f), and (g) to form PPBR-1, block (04), columns (a), (b), (c), and (d) in the appropriate row.

OFFICE OF THE STATE CONTROLLER
STATE MANDATED COSTS CLAIMING INSTRUCTIONS NO. 2008-08
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR)
LOCAL AGENCIES
BEGINNING IN FISCAL YEAR 2006-2007

JUNE 3, 2008

In accordance with Government Code (GC) section 17561, eligible claimants may submit claims to the State Controller's Office (SCO) for reimbursement of costs incurred for state mandated cost programs. The following are claiming instructions and forms that eligible claimants will use for filing claims for the POBOR program. These claiming instructions are issued subsequent to adoption of the program's Parameters and Guidelines (P's & G's) by the Commission on State Mandates (CSM).

On April 26, 2006, CSM reviewed its original findings and adopted a Statement of Decision on reconsideration which determined that the test claim legislation established costs mandated by the State according to the provisions listed in the P's & G's. For your reference, the P's & G's are included as an integral part of the claiming instructions.

Limitations and Exceptions

The following activities are not reimbursable:

IV. REIMBURSABLE ACTIVITIES

A. Administrative Activities (Ongoing)

Maintaining or updating cases, setting up, reviewing, evaluating, and closing cases.
(See page 5 of the P's and G's).

B. Administrative Appeal

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. (See page 5 of the P's and G's).

The following activities related to administrative appeals are not reimbursable:

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

C. Interrogation

The following activities related to interrogations are not reimbursable:

1. Interrogation 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. (See footnote on page 7 of the P's and G's).
2. 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. (See page 7 of the P's and G's).
3. The investigator's time to record the session and transcription costs of non-sworn peace officers.
4. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint file, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
5. 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.
6. 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.
7. Closing the file, including the preparation of a case summary disposition report and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

The following activities related to adverse comments are not reimbursable:

1. 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, and school security officers. (See footnote on page 9 of the P's and G's).
2. Investigating a complaint;
3. Interviewing a complainant;
4. Preparing a complaint investigation report.

Claim Preparation and Submission

Claimants may be reimbursed for the activities described in Section IV of the P's and G's by using the reasonable reimbursement methodology or by filing an actual cost claim.

A. Reasonable Reimbursement Methodology

This method allows each eligible claimant to be reimbursed at the rate of \$37.25 per full-time sworn peace officer employed by the agency and includes all direct and indirect costs of performing the activities described in Section IV, Reimbursable Activities, in the P's and G's. This rate will be adjusted annually by the Implicit Price Deflator (IPD).

B. Actual Cost Method

Actual costs are those costs incurred to implement the mandated activities. These 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. It may also 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 repetitive. Time study usage is subject to the review and audit conducted by SCO.

Eligible Claimants

Any city, county, or special district that employs peace officers and incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of these costs.

Filing Deadlines

A. Reimbursement Claims

Initial reimbursement claims must be filed within 120 days from the issuance date of the claiming instructions. Costs incurred for compliance with this mandate are reimbursable for fiscal year 2006-2007 and beyond. Claims for the 06-07 fiscal year must be filed with SCO and be delivered or postmarked on or before **October 1, 2008**. Claims for fiscal year 2007-08 must be filed with SCO and be delivered or postmarked on or before **February 17, 2009**, before a late fee is assessed. **Claims filed more than one year after the deadline will not be accepted.**

B. Late Penalty

GC Section 17568 as amended by Chapter 6, Statutes of 2008, states that if a local agency submits a reimbursement claim to SCO after the deadline as specified in GC Section 17560, the Controller shall reduce the reimbursement claim in an amount equal to 10 percent of the amount that would have been allowed had the reimbursement claim been timely filed, provided that the amount of this reduction shall not exceed ten thousand dollars (\$10,000).

C. Estimated Claims

Pursuant to AB 8, Chapter 6, Statutes of 2008, the option to file estimated reimbursement claims has been eliminated. Therefore, estimated claims filed on or after February 16, 2008, will not be accepted by SCO.

Minimum Claim Cost

GC section 17564(a) provides that no claim shall be filed pursuant to Sections 17551 and 17561, unless such claim exceeds one thousand dollars (\$1,000).

Certification of Claim

In accordance with the provisions of GC section 17561, an authorized officer of the claimant shall be required to provide a certification of claim 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 the Code of Civil Procedure section 2015.5, for those costs mandated by the State and contained herein.

Audit of Costs

All claims submitted to SCO are reviewed to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with SCO's claiming instructions and the P's & G's adopted by CSM. If any adjustments are made to a claim, a "Notice of Claim Adjustment" specifying the claim component adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within 30 days after payment of the claim.

Pursuant to GC section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency for this mandate is subject to the initiation of an audit by SCO no later than three years after the date that the actual reimbursement claim was filed or last amended, whichever is later. However, if no funds are appropriated or no payment was made to a claimant for the program for the fiscal year for which the claim was filed, the time for SCO 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 no later than two years after the date that the audit was initiated. All documents used to support the reimbursable activities must be retained during the period subject to audit. If an audit has been initiated by SCO during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings. On-site audits will be conducted by SCO as deemed necessary.

Retention of Claiming Instructions

The claiming instructions and forms in this package should be retained permanently in your Mandated Cost Manual for future reference and use in filing claims. These forms should be

duplicated to meet your filing requirements. You will be notified of updated forms or changes to claiming instructions as necessary.

Questions, or requests for hard copies of these instructions, should be faxed to Angie Lowi-Teng at (916) 323-6527 or e-mailed to **ateng@sco.ca.gov**. Or, if you wish, you may call Angie of the Local Reimbursements Section at (916) 323-0706.

For your reference, these and future mandated costs claiming instructions and forms can be found on the Internet at www.sco.ca.gov/ard/local/mancost/index.shtml.

Address for Filing Claims

Claims should be rounded to the nearest dollar. Submit a signed original and a copy of form FAM-27, Claim for Payment, and all other forms and supporting documents.

To expedite the payment process, please sign the form in blue ink, and attach a copy of the form FAM-27 to the top of the claim package.

Use the following mailing addresses:

If delivered by
U.S. Postal Service:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

If delivered by
other delivery services:

Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

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

AMENDED PARAMETERS AND GUIDELINES

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

As Added and Amended by Statutes of 1976, Chapter 465;

Statutes of 1978, Chapters 775, 1173, 1174, and 1178;

Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

06-PGA-06

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

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

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

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

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."

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

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

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

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

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

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

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

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

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

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

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

1. A local agency or school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

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

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

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.

IV. REIMBURSABLE ACTIVITIES

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

For each eligible claimant, the following activities are reimbursable:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.
2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.
3. Updating the status report of mandate-reimbursable POBOR activities.
“Updating the status report of mandate-reimbursable POBOR-activities” means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

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

The following activities and costs are reimbursable:

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

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.

The following activities are **not** reimbursable:

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

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

The following activities and costs are reimbursable:

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

The following activities are **not** reimbursable:

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

C. Interrogations

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

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

The following activities are reimbursable:

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

Preparation and review of overtime compensation requests are reimbursable.

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

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

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

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.)

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

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):

- a. The further proceeding is not a disciplinary action;
- b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);
- c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):

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

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

The following activities are **not** reimbursable:

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

D. Adverse Comment

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

School Districts

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

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.)

Counties

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

Cities and Special Districts

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

The following adverse comment activities are reimbursable:

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

The following activities are **not** reimbursable:

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

V. CLAIM PREPARATION AND SUBMISSION

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

A. Reasonable Reimbursement Methodology

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

1. Definition

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

- (a) *Reasonable reimbursement methodology* means a formula for reimbursing local agency and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a *reasonable reimbursement methodology* shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year,

the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

2. Formula

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

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

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

B. ACTUAL COST CLAIMS

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

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

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

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

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

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

1. Direct Cost Reporting

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

a. Salaries and Benefits

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

b. 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.

c. 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.

d. 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.

e. 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 B. 1. a. Salaries and Benefits, for each applicable reimbursable activity.

f. 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 B.1.a, Salaries and Benefits, and B.1.b, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element B.1.c, Contracted Services.

2. Indirect Cost Rates

a. 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:

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

expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

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

b. 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.

c. 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.

d. Community College Districts

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

VI. RECORD RETENTION

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

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

commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the application of a reasonable reimbursement methodology must also be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

State Controller's Office

Local Mandated Cost State Mandates

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES			For State Controller Use Only (19) Program Number 00187 (20) Date Filed (21) LRS Input		PROGRAM <div style="font-size: 2em; font-weight: bold; margin-top: 10px;">187</div>	
(01) Claimant Identification Number			Reimbursement Claim Data			
(02) Claimant Name			(22) FORM-1, (03)			
Address			(23) FORM-1, (05)(A)(g)			
			(24) FORM-1, (05)(B)(g)			
			(25) FORM-1, (05)(C)(g)			
Type of Claim	Estimated Claim	Reimbursement Claim	(26) FORM-1, (05)(D)(g)			
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input type="checkbox"/>	(27) FORM-1, (07)			
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28) FORM-1, (09)			
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29) FORM-1, (10)			
Fiscal Year of Cost	(06)	(12)	(30) FORM-1, (11)			
Total Claimed Amount	(07)	(13)	(31)			
Less: 10% Late Penalty (refer to claiming instructions)		(14)	(32)			
Less: Prior Claim Payment Received		(15)	(33)			
Net Claimed Amount		(16)	(34)			
Due from State	(08)	(17)	(35)			
Due to State		(18)	(36)			
(37) CERTIFICATION OF CLAIM <p>In accordance with the provisions of Government Code § 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for the Reimbursement Claim are hereby claimed from the State for payment of actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> Signature of Authorized Officer <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> </div> <div style="width: 45%;"> Date <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> Type or Print Name (38) Name of Contact Person for Claim <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> </div> <div style="width: 45%;"> Title <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> Telephone Number <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> </div> <div style="width: 45%;"> E-mail Address <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> </div> </div>						

State Controller's Office

Local Mandated Cost State Mandates

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES Certification Claim Form Instructions	FORM FAM-27
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- (01) Enter the payee number assigned by the State Controller's Office.
- (02) Enter your Official Name, County of Location, Street or P. O. Box address, City, State, and Zip Code.
- (03) Leave blank.
- (04) Leave blank.
- (05) Leave blank.
- (06) Leave blank.
- (07) Leave blank.
- (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing a combined reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.
- (13) Enter the amount of the reimbursement claim from Form-1, line (12). The total claimed amount must exceed \$1,000.
- (14) Actual claims for 06-07 must be filed by **October 1, 2008**, otherwise the claims shall be reduced by a late penalty. Enter zero if the claim was timely filed, otherwise, enter the product of multiplying line (13) by the factor 0.10 (10% penalty), not to exceed \$1,000.
- (15) If filing a reimbursement claim or a claim was previously filed for the same fiscal year, enter the amount received for the claim. Otherwise, enter a zero.
- (16) Enter the result of subtracting line (14) and line (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form-1, (05)(A)(g), means the information is located on Form-1, block (05)(A), column (g). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the payment process.**
- (37) Read the statement "Certification of Claim." If it is true, the claim must be dated, signed by the agency's authorized officer, and must include the person's name and title, typed or printed. **Claims cannot be paid unless accompanied by an original signed certification. (To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the person to contact if additional information is required.

SUBMIT A SIGNED ORIGINAL, AND A COPY OF FORM FAM-27, WITH ALL OTHER FORMS AND SUPPORTING DOCUMENTS TO:

Address, if delivered by U.S. Postal Service:

**OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250**

Address, if delivered by other delivery service:

**OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816**

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY						FORM 1
	(01) Claimant					(02) Fiscal Year ____ / ____	
	Claim Statistics						
	(03) Number of full-time sworn peace officers employed by the agency during this fiscal year						
Flat Rate Method							
(04) Total Cost					[Line (03) X \$37.25 for 06-07 fiscal year] [Enter total on line (09)]		
Actual Cost Method							
Direct Costs	Object Accounts						
(05) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials And Supplies	(d) Contract Services	(e) Fixed Assets	(f) Travel And Training	(g) Total
A. Administrative Activities							
B. Administrative Appeal							
C. Interrogations							
D. Adverse Comment							
(06) Total Direct Costs							
Indirect Costs							
(07) Indirect Cost Rate					[From ICRP or 10%]		%
(08) Total Indirect Costs					[Refer to claiming instructions]		
(09) Total Direct and Indirect Costs					[Refer to claiming instructions]		
Cost Reduction							
(10) Less: Offsetting Savings							
(11) Less: Other Reimbursements							
(12) Total Claimed Amount					[Line (09) - {line (10) + line (11)}]		

Revised 06/08

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (04) Total Cost. Multiply the number of peace officers from line (03) by the flat rate for the total cost, and enter the result on line (09).
- (05) Reimbursable Activities. For each reimbursable activity, enter the total from form 2, line (05), columns (d) through (i) to form 1, block (04), columns (a) through (f) in the appropriate row. Total each row.
- (06) Total Direct Costs. Total columns (a) through (g).
- (07) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (08) Total Indirect Costs. If the 10% flat rate is used for indirect costs, multiply Total Salaries, line (06)(a), by the Indirect Cost Rate, line (07). If an ICRP is submitted and both salaries and benefits were used in the distribution base for the computation of the indirect cost rate, then multiply the sum of Total Salaries, line (06)(a), and Total Benefits, line (06)(b), by the Indirect Cost Rate, line (07). If more than one department is reporting costs, each must have its own ICRP for the program.
- (09) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (04).

Actual Cost Method: Enter the sum of Total Direct Costs, line (06)(g), and Total Indirect Costs, line (08).
- (10) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (11) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (12) Total Claimed Amount. Line (09) less the sum of line (10) plus line (11). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL	FORM 2
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(01) Claimant	(02) Fiscal Year
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Administrative Activities	<input type="checkbox"/> Interrogations
<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Adverse Comment

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training

(05) Total Subtotal Page: ____ of ____							
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Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL Instructions	FORM 2
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For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 shall be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box "checked" in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, fringe benefits, supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit shall be from the date of initial payment of the claim. Such documents shall be made available to SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to form 1, block (04), columns (a) through (f) in the appropriate row.

OFFICE OF THE STATE CONTROLLER
STATE MANDATED COSTS CLAIMING INSTRUCTIONS NO. 2009-10
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR)
LOCAL AGENCIES
BEGINNING IN FISCAL YEAR 2006-2007

OCTOBER 5, 2009

Revised October 30, 2009

In accordance with Government Code (GC) Section 17561, eligible claimants may submit claims to the State Controller's Office (SCO) for reimbursement of costs incurred for state mandated cost programs. The following are claiming instructions and forms that eligible claimants will use to file claims for the POBOR program. These claiming instructions are issued subsequent to adoption of the program's Amended Parameters and Guidelines (P's & G's) by the Commission on State Mandates (Commission).

On July 27, 2000, the Commission adopted P's and G's that listed counties, cities, school districts, and special districts that employ peace officers as eligible claimants. On July 31, 2009, the Commission amended the decision to deny reimbursement to school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties. The Amended P's and G's are included as an integral part of the claiming instructions.

Eligible Claimants

Any city, county, or special police protection district named in Government Code Section 53060.7 that wholly supplants the law enforcement functions of the county within their jurisdiction is an eligible claimant. The special police protection districts aforementioned are the Bear Valley Community Services District, the Broadmoor Police Protection District, the Kensington Police Protection and Community Services District, the Lake Shastina Community Services District, and the Stallion Springs Community Services District.

Filing Deadlines

A. Reimbursement Claims

Reimbursement claims must be filed within 120 days from the issuance date of the claiming instructions. Costs incurred for compliance with this mandate are reimbursable for fiscal year 2006-2007 and subsequent fiscal years. Claims for the fiscal year 2006-07 and 2007-08 must be filed with the SCO and be delivered or postmarked on or before **February 1, 2010**. Claims for fiscal year 2008-09 must be filed with the SCO and be delivered or postmarked on or before **February 16, 2010**, before a late fee is assessed. **Claims filed more than one year after the deadline will not be accepted.**

B. Late Penalty

1. Initial Claims

Late initial claims are assessed a late penalty of 10% of the total amount of the initial claims without limitation.

2. Annual Reimbursement Claims

Late annual reimbursement claims are assessed a late penalty of 10% of the claim amount; \$10,000 maximum penalty.

Limitations and Exceptions

The following activities are **not** reimbursable:

IV. REIMBURSABLE ACTIVITIES

A. Administrative Activities (Ongoing)

Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases. (See page 5 of the P's and G's.)

B. Administrative Appeal

The administrative appeal activities listed below apply to permanent peace officer employees as defined in Penal Code Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except Subdivision (e), 830.34, 830.35, except Subdivision (c), 830.36, 830.37, 830.4, and 830.5.

The administrative appeal activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers. (See page 5 of the P's and G's.)

The following activities related to Administrative Appeal B.1. and B.2. are **not** reimbursable:

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

C. Interrogation

The following activities related to interrogations are **not** reimbursable:

1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint file, 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 report and attending executive review or committee hearings related to the investigation.
5. Interrogation 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. (See footnote on page 7 of the P's and G's.)
6. 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. (See page 7 of the P's and G's.)
7. The investigator's time to record the session and transcription costs of non-sworn peace officers. (See page 7 of the P's and G's.)

D. Adverse Comment

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, and school security officers. (See footnote on page 9 of the P's and G's.)

The following activities related to Adverse Comment are **not** reimbursable:

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

Claim Preparation and Submission

Claimants may be reimbursed for the activities described in Section IV of the P's and G's by using the reasonable reimbursement methodology (RRM) or by filing an actual cost claim.

Claimants may not combine the RRM with the Actual Cost Method on a single claim even if several departments are engaged.

A. Reasonable Reimbursement Methodology

This method allows each eligible claimant to be reimbursed at the rate of \$37.25 for 2006-07, \$39.31 for 2007-08, and \$40.50 for 2008-09 per full-time sworn peace officer employed by the agency and includes all direct and indirect costs of performing the activities described in

the P's and G's Section IV., Reimbursable Activities. This rate will be adjusted annually by the Implicit Price Deflator (IPD).

B. Actual Cost Method

Actual costs are those costs incurred to implement the mandated activities. These costs must be traceable and supported by source documents that show the validity of costs when 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. It may also include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, these documents cannot be substituted for source documents. Claimants may use time studies to support salary and benefit costs when an activity is repetitive. Time study usage is subject to the review and audit conducted by the SCO.

Minimum Claim Cost

GC Section 17564(a) provides that no claim may be filed pursuant to Sections 17551 and 17561, unless such a claim exceeds one thousand dollars (**\$1,000**), provided that a county may submit a combined claim on behalf of direct service districts or special districts within their county if the combined claim exceeds **\$1,000**, even if the individual direct service district's or special district's claim does not each exceed **\$1,000**. The county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each direct service district or special district. These combined claims may be filed only when the county is the fiscal agent for the districts. A combined claim must show the individual claim costs for each eligible district. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a direct service district or special district provides a written notice of its intent to file a separate claim to the county and to the SCO, at least one hundred and eighty days before filing the claim.

Reimbursement of Claims

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. 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 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, notices of order of suspension or revocation, sworn reports, arrest reports, notices to appear, employee time records, or time logs, 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, 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 the 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, these documents cannot be substituted for source documents.

Audit of Costs

All claims submitted to the SCO are subject to review to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with the SCO’s claiming instructions and the P’s & G’s adopted by the Commission. If any adjustments are made to a claim, a Notice of Claim Adjustment specifying the claim activity adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within thirty days after payment of the claim.

Pursuant to GC Section 17558.5, Subdivision (a), a reimbursement claim for actual costs filed by a local agency pursuant to this chapter is subject to the initiation of an audit by the SCO no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds were appropriated or no payment was 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 must be retained during the period subject to audit. If an audit has been initiated by the SCO during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings. Supporting documents must be made available to the SCO on request.

Retention of Claiming Instructions

All documentation to support actual costs claimed must be retained for a period of three years after the end of the calendar year in which the reimbursement claim was filed or last amended regardless of the year of costs incurred. When no funds were appropriated for initial claims at the time the claim was filed, supporting documents must be retained for three years from the date of initial payment of the claim. Therefore, all documentation to support actual costs claimed must be retained for the same period, and must be made available to the SCO on request.

Questions, or requests for hard copies of these instructions, should be faxed to LRSDAR at (916) 323-6527 or e-mailed to **LRSDAR@sco.ca.gov** or you may call the Local Reimbursements Section at (916) 324-5729. Future mandated costs claiming instructions and forms can be found on the Internet at www.sco.ca.gov/ard_mancost.html.

Address for Filing Claims

Claims should be rounded to the nearest dollar. Submit a signed original and a copy of form FAM-27, Claim for Payment, and all other forms. **To expedite the payment process, please sign the form in blue ink, and attach a copy of the form FAM-27 to the top of the claim package.**

Use the following mailing addresses:

If delivered by

U.S. Postal Service:

Office of the State Controller

Attn.: Local Reimbursement Section

Division of Accounting and Reporting

P. O. Box 942850

Sacramento, CA 94259

If delivered by

other delivery services:

Office of the State Controller

Attn.: Local Reimbursement Section

Division of Accounting and Reporting

3301 C Street, Suite 700

Sacramento, CA 95816

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006
Amended: March 28, 2008
Amended: July 31, 2009

AMENDED 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

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

06-PGA-06

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

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

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

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

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

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

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

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

The Commission 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 for counties, cities, school districts, and

special districts identified in Government Code section 3301 that employ peace officers, 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.

On February 6, 2009, the Third District Court of Appeal, in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1357, determined that POBOR is not a reimbursable mandate as to school districts and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties.

On May 8, 2009, the Sacramento County Superior Court issued a judgment and writ in Case No. 07CS00079, pursuant to the Third District Court of Appeal’s decision in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, requiring the Commission to:

- a. Set aside the portion of its reconsideration decision in “Case No. 05-RL-4499-01 Peace Officer Procedural Bill of Rights” (reconsideration decision) that found that the Peace Officer Procedural Bill of Rights program constitutes a reimbursable state-mandated program for school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties;
- b. Issue a new decision denying the portion of the reconsideration decision approving reimbursement for school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties; and

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.

- c. Amend the parameters and guidelines consistent with this judgment.

This judgment does not affect cities, counties, or special police protection districts named in Government Code section 53060.7, which wholly supplant the law enforcement functions of the County within their jurisdiction.

Accordingly, on July 31, 2009, the Commission amended the decision to deny reimbursement to school districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, and special police protection districts named in Government Code section 53060.7 that wholly supplant the law enforcement functions of the county within their jurisdiction are eligible claimants.

School districts, community college districts, and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties are not eligible claimants entitled to reimbursement.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities and reasonable reimbursement methodology in this parameters and guidelines amendment begins on July 1, 2006.

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

1. A local agency may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

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

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

IV. REIMBURSABLE ACTIVITIES

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

For each eligible claimant, the following activities are reimbursable:

A. Administrative Activities (On-going Activities)

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

2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.
3. Updating the status report of mandate-reimbursable POBOR activities.
“Updating the status report of mandate-reimbursable POBOR-activities” means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

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

The following activities and costs are reimbursable:

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

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

The following activities are **not** reimbursable:

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

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

The following activities and costs are reimbursable:

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

The following activities are **not** reimbursable:

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

C. Interrogations

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

⁴ Interrogations of reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff

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).)

Preparation and review of overtime compensation requests are reimbursable.

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

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

- a. Review of agency complaints or other documents to prepare the notice of interrogation.
- b. Identification of the interrogating officers to include in the notice of interrogation.
- c. Preparation of the notice.
- d. Review of notice by counsel.
- e. Providing notice to the peace officer prior to interrogation.

3. Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

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

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a. The further proceeding is not a disciplinary action;
 - b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty

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.)

interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);

- c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

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

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

The following activities are **not** reimbursable:

- 1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
- 2. Investigation activities, including assigning an investigator to the case, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses.

3. Preparing for the interrogation, reviewing and preparing interrogation questions, conducting the interrogation, and reviewing the responses given by the officer and/or witness during the interrogation.
4. Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

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

Counties

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

Cities and Special Police Protection Districts

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

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.)

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

The following adverse comment activities are reimbursable:

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

The following activities are **not** reimbursable:

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

V. CLAIM PREPARATION AND SUBMISSION

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

A. Reasonable Reimbursement Methodology

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

1. Definition

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

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

2. Formula

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

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

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

B. ACTUAL COST CLAIMS

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

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

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

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

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

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

1. Direct Cost Reporting

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

a. Salaries and Benefits

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

b. 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.

c. 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.

d. 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.

e. 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 B. 1. a. Salaries and Benefits, for each applicable reimbursable activity.

f. 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 B.1.a, Salaries and Benefits, and B.1.b, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element B.1.c, Contracted Services.

2. Indirect Cost Rates

a. 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 2 CFR Part 225 (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 2 CFR Part 225 (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225 (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:

- i. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (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
- ii The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (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.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the application of a reasonable reimbursement methodology

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

must also be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM 4499) and the Statement of Decision on Reconsideration (05-RL-4499-01) are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim, and in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355. The administrative record, including the Statement of Decision and the Statement of Decision on Reconsideration, is on file with the Commission.

State Controller's Office

Local Mandated Cost Claims

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR)			For State Controller Use Only (19) Program Number 00187 (20) Date Filed (21) LRS Input		PROGRAM <div style="font-size: 2em; font-weight: bold;">187</div>	
(01) Claimant Identification Number			Reimbursement Claim Data			
(02) Claimant Name			(22) FORM-1, (04)			
County of Location			(23) FORM-1, (05)			
Street Address or P.O. Box		Suite	(24) FORM-1, (06)(A)(g)			
City	State	Zip Code	(25) FORM-1, (06)(B)(g)			
		Type of Claim	(26) FORM-1, (06)(C)(g)			
		(03) (09) Reimbursement <input type="checkbox"/>	(27) FORM-1, (06)(D)(g)			
		(04) (10) Combined <input type="checkbox"/>	(28) FORM-1, (08)			
		(05) (11) Amended <input type="checkbox"/>	(29) FORM-1, (09)			
Fiscal Year of Cost		(06)	(12)	(30) FORM-1, (11)		
Total Claimed Amount		(07)	(13)	(31) FORM-1, (12)		
Less: 10% Late Penalty (refer to attached Instructions)			(14)	(32)		
Less: Prior Claim Payment Received			(15)	(33)		
Net Claimed Amount			(16)	(34)		
Due from State		(08)	(17)	(35)		
Due to State			(18)	(36)		

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Section 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code.

I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer

Type or Print Name and Title of Authorized Signatory

Date Signed _____

Telephone Number _____

E-Mail Address _____

(38) Name of Agency Contact Person for Claim

Name of Consulting Firm / Claim Preparer

Telephone Number _____

E-mail Address _____

Telephone Number _____

E-mail Address _____

PROGRAM 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) Certification Claim Form Instructions for Form FAM-27	FORM FAM-27
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- (01) Enter the claimant number assigned by the State Controller's Office.
- (02) Enter your Official Name, County of Location, Street or P. O. Box address, City, State, and Zip Code.
- (03) to (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing a combined reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed.
- (13) Enter the amount of the reimbursement claim as shown in the attached Form-1 line (13). The total claimed amount must exceed \$1,000.
- (14) Reimbursement claims must be filed by **February 15** of the following fiscal year in which costs were incurred or the claims must be reduced by a late penalty. Enter zero if the claim was timely filed. Otherwise, enter the penalty amount as a result of the calculation formula as follows:
- Late Initial Claims: FAM-27 line(13) multiplied by 10%, without limitation; or
 - Late Annual Reimbursement Claims: FAM-27, line (13) multiplied by 10%, late penalty not to exceed \$10,000.
- (15) Enter the amount of payment, if any, received for the claim. If no payment was received, enter zero.
- (16) Enter the net claimed amount by subtracting the sum of lines (14) and (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form-1, (06)(A)(g), means the information is located on form Form-1, line (06)(A), column (g). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35.
Completion of this data block will expedite the payment process.
- (37) Read the statement of Certification of Claim. The claim must be dated, signed by the agency's authorized officer, and must type or print name, title, telephone number and email address. **Claims cannot be paid unless accompanied by an original signed certification. (To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the agency contact person for the claim. If claim is prepared by external consultant, type or print the name of the consulting firm, telephone number, and e-mail address.

SUBMIT A SIGNED ORIGINAL, AND A COPY OF FORM FAM-27, WITH ALL OTHER FORMS TO:

Address, if delivered by U.S. Postal Service:

**OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 P.O. Box 942850
 Sacramento, CA 94250**

Address, if delivered by other delivery service:

**OFFICE OF THE STATE CONTROLLER
 ATTN: Local Reimbursements Section
 Division of Accounting and Reporting
 3301 C Street, Suite 700
 Sacramento, CA 95816**

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 06-07						FORM 1
(01) Claimant				(02) Fiscal Year			
				20__/20__			
(03) Department							
Claim Statistics							
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year							
Flat Rate Method							
(05) Total Cost [Line (03) X \$37.25 for 06-07 fy] [Skip (06) to (09) and carry forward total to line (10)]							
Actual Cost Method							
Direct Costs		Object Accounts					
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
(06) Reimbursable Activities	Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total
(A) Administrative Activities							
(B) Administrative Appeal							
(C) Interrogations							
(D) Adverse Comment							
(07) Total Direct Costs							
Indirect Costs							
(08) Indirect Cost Rate [From ICRP or 10%]							%
(09) Total Indirect Costs [Refer to claiming instructions]							
(10) Total Direct and Indirect Costs [Refer to claiming instructions]							
Cost Reduction							
(11) Less: Offsetting Savings							
(12) Less: Other Reimbursements							
(13) Total Claimed Amount [Line (10) - {line (11) + line (12)}]							

Revised 10/09

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 06-07	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**
- Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Rate Method**
- Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).
- Actual Cost Method:** Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 07-08							FORM 1
(01) Claimant				(02) Fiscal Year				
				20__/20__				
(03) Department								
Claim Statistics								
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year								
Flat Rate Method								
(05) Total Cost [Line (03) X \$39.31 for 07-08 fy] [Skip (06) to (09) and carry forward total to line (10)]								
Actual Cost Method								
Direct Costs		Object Accounts						
		(a)	(b)	(c)	(d)	(e)	(f)	(g)
(06) Reimbursable Activities		Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total
(A) Administrative Activities								
(B) Administrative Appeal								
(C) Interrogations								
(D) Adverse Comment								
(07) Total Direct Costs								
Indirect Costs								
(08) Indirect Cost Rate [From ICRP or 10%]								%
(09) Total Indirect Costs [Refer to claiming instructions]								
(10) Total Direct and Indirect Costs [Refer to claiming instructions]								
Cost Reduction								
(11) Less: Offsetting Savings								
(12) Less: Other Reimbursements								
(13) Total Claimed Amount [Line (10) - {(line (11) + line (12))}]								

Revised 10/09

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 07-08	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**
- Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Rate Method**
- Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).
- Actual Cost Method:** Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 08-09							FORM 1
(01) Claimant				(02) Fiscal Year				
				20__/20__				
(03) Department								
Claim Statistics								
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year								
Flat Rate Method								
(05) Total Cost [Line (03) X \$40.50 for 08-09 fy] [Skip (06) to (09) and carry forward total to line (10)]								
Actual Cost Method								
Direct Costs		Object Accounts						
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	
(06) Reimbursable Activities	Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total	
(A) Administrative Activities								
(B) Administrative Appeal								
(C) Interrogations								
(D) Adverse Comment								
(07) Total Direct Costs								
Indirect Costs								
(08) Indirect Cost Rate [From ICRP or 10%]								%
(09) Total Indirect Costs [Refer to claiming instructions]								
(10) Total Direct and Indirect Costs [Refer to claiming instructions]								
Cost Reduction								
(11) Less: Offsetting Savings								
(12) Less: Other Reimbursements								
(13) Total Claimed Amount [Line (10) - {(line (11) + line (12))}]								

Revised 10/09

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 08-09	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**
- Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Cost Method**
- Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).
- Actual Cost Method:** Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

State Controller's Office

Local Mandated Costs Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 06-07	FORM 2
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(01) Claimant	(02) Fiscal Year
---------------	------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Administrative Activities	<input type="checkbox"/> Interrogations
<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Adverse Comment

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training
(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ___ of ___								

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 06-07 Instructions	FORM 2
------------------------------	--	-------------------------

For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

State Controller's Office

Local Mandated Costs Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 07-08	FORM 2
------------------------------	--	-------------------------

(01) Claimant	(02) Fiscal Year
---------------	------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Administrative Activities	<input type="checkbox"/> Interrogations
<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Adverse Comment

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training
(05) Total	<input type="checkbox"/> Subtotal	Page: ___ of ___						

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 07-08 Instructions	FORM 2
------------------------------	--	-------------------------

For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

State Controller's Office

Local Mandated Costs Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 08-09	FORM 2
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(01) Claimant	(02) Fiscal Year
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(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Administrative Activities	<input type="checkbox"/> Interrogations
<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Adverse Comment

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training
(05) Total	<input type="checkbox"/> Subtotal	Page: ___ of ___						

Revised 09/09

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 08-09 Instructions	FORM 2
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For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

State Controller's Office

Local Mandated Cost Manual

CLAIM FOR PAYMENT Pursuant to Government Code Section 17561 PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR)			For State Controller Use Only	PROGRAM 187
(01) Claimant Identification Number			(19) Program Number 00187	
(02) Claimant Name			(20) Date Filed	
County of Location			(21) LRS Input	
Street Address of P.O. Box			(22) FORM-1, (04)	
Suite			(23) FORM-1, (05)	
City			(24) FORM-1, (06)(A)(g)	
State			(25) FORM-1, (06)(B)(g)	
Zip Code			(26) FORM-1, (06)(C)(g)	
Type of Claim			(27) FORM-1, (06)(D)(g)	
(03) (09) Reimbursement <input type="checkbox"/>			(28) FORM-1, (08)	
(04) (10) Combined <input type="checkbox"/>			(29) FORM-1, (09)	
(05) (11) Amended <input type="checkbox"/>			(30) FORM-1, (11)	
Fiscal Year of Cost			(31) FORM-1, (12)	
Total Claimed Amount			(32)	
Less: 10% Late Penalty (refer to attached Instructions)			(33)	
Less: Prior Claim Payment Received			(34)	
Net Claimed Amount			(35)	
Due from State			(36)	
Due to State				
(37) CERTIFICATION OF CLAIM In accordance with the provisions of Government Code Section 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 Government Code. I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant. The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Signature of Authorized Officer <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/> </div> <div style="width: 45%;"> Date Signed _____ Telephone Number _____ E-Mail Address _____ </div> </div> <div style="margin-top: 10px;"> Type or Print Name and Title of Authorized Signatory <hr style="border: 0; border-top: 1px solid black;"/> </div> <div style="margin-top: 10px;"> (38) Name of Agency Contact Person for Claim <hr style="border: 0; border-top: 1px solid black;"/> </div> <div style="margin-top: 10px;"> Name of Consulting Firm / Claim Preparer <hr style="border: 0; border-top: 1px solid black;"/> </div> <div style="margin-top: 10px;"> Telephone Number _____ E-mail Address _____ Telephone Number _____ E-mail Address _____ </div>				

State Controller's Office

Local Mandated Cost Manual

PROGRAM 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) Certification Claim Form Instructions for Form FAM-27	FORM FAM-27
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- (01) Enter the payee number assigned by the State Controller's Office.
- (02) Enter your Official Name, County of Location, Street or P. O. Box address, City, State, and Zip Code.
- (03) to (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing a combined reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.
- (13) Enter the amount of the reimbursement claim as shown in the attached Form-1 line (13). The total claimed amount must exceed \$1,000.
- (14) Reimbursement claims must be filed by **February 15** of the following fiscal year in which costs were incurred or the claims must be reduced by a late penalty. Enter zero if the claim was timely filed. Otherwise, enter the penalty amount as a result of the calculation formula as follows:
- Late Initial Claims: FAM-27 line(13) multiplied by 10%, without limitation; or
 - Late Annual Reimbursement Claims: FAM-27, line (13) multiplied by 10%, late penalty not to exceed \$10,000.
- (15) Enter the amount of payment, if any, received for the claim. If no payment was received, enter zero.
- (16) Enter the net claimed amount by subtracting the sum of lines (14) and (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form-1, (06)(A)(g), means the information is located on form Form-1, line (06)(A), column (g). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the payment process.**
- (37) Read the statement of Certification of Claim. The claim must be dated, signed by the agency's authorized officer, and must type or print name, title, telephone number and email address. **Claims cannot be paid unless accompanied by an original signed certification. (To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the agency contact person for the claim. If claim is prepared by external consultant, type or print the name of the consulting firm, telephone number, and e-mail address.

SUBMIT A SIGNED ORIGINAL, AND A COPY OF FORM FAM-27, WITH ALL OTHER FORMS TO:

Address, if delivered by U.S. Postal Service:

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

Address, if delivered by other delivery service:

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 06-07						FORM 1	
(01) Claimant				(02) Fiscal Year 20__/20__				
(03) Department								
Claim Statistics								
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year								
Flat Rate Method								
(05) Total Cost [Line (03) X \$37.25 for 06-07 fy] [Skip (06) to (09) and carry forward total to line (10)]								
Actual Cost Method								
Direct Costs		Object Accounts						
		(a)	(b)	(c)	(d)	(e)	(f)	(g)
		Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total
(06) Reimbursable Activities								
(A) Administrative Activities								
(B) Administrative Appeal								
(C) Interrogations								
(D) Adverse Comment								
(07) Total Direct Costs								
Indirect Costs								
(08) Indirect Cost Rate [From ICRP or 10%]							%	
(09) Total Indirect Costs [Refer to claiming instructions]								
(10) Total Direct and Indirect Costs [Refer to claiming instructions]								
Cost Reduction								
(11) Less: Offsetting Savings								
(12) Less: Other Reimbursements								
(13) Total Claimed Amount [Line (10) - {line (11) + line (12)}]								

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Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 06-07	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**
- Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Rate Method**
- Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).
- Actual Cost Method:** Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

State Controller's Office

Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 07-08	FORM 1					
(01) Claimant		(02) Fiscal Year 20__/20__					
(03) Department							
Claim Statistics							
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year							
Flat Rate Method							
(05) Total Cost		[Line (03) X \$39.31 for 07-08 fy] [Skip (06) to (09) and carry forward total to line (10)]					
Actual Cost Method							
Direct Costs	Object Accounts						
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
(06) Reimbursable Activities	Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total
(A) Administrative Activities							
(B) Administrative Appeal							
(C) Interrogations							
(D) Adverse Comment							
(07) Total Direct Costs							
Indirect Costs							
(08) Indirect Cost Rate						[From ICRP or 10%] %	
(09) Total Indirect Costs						[Refer to claiming instructions]	
(10) Total Direct and Indirect Costs						[Refer to claiming instructions]	
Cost Reduction							
(11) Less: Offsetting Savings							
(12) Less: Other Reimbursements							
(13) Total Claimed Amount						[Line (10) - (line (11) + line (12))]	

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Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 07-08	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**
- Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Rate Method**
- Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).
- Actual Cost Method:** Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

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Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 08-09						FORM 1	
(01) Claimant				(02) Fiscal Year 20__/20__				
(03) Department								
Claim Statistics								
(04) Number of full-time sworn peace officers employed by the agency during this fiscal year								
Flat Rate Method								
(05) Total Cost [Line (03) X \$40.50 for 08-09 fy] [Skip (06) to (09) and carry forward total to line (10)]								
Actual Cost Method								
Direct Costs		Object Accounts						
		(a)	(b)	(c)	(d)	(e)	(f)	(g)
		Salaries	Benefits	Materials And Supplies	Contract Services	Fixed Assets	Travel And Training	Total
(06) Reimbursable Activities								
(A) Administrative Activities								
(B) Administrative Appeal								
(C) Interrogations								
(D) Adverse Comment								
(07) Total Direct Costs								
Indirect Costs								
(08) Indirect Cost Rate [From ICRP or 10%]							%	
(09) Total Indirect Costs [Refer to claiming instructions]								
(10) Total Direct and Indirect Costs [Refer to claiming instructions]								
Cost Reduction								
(11) Less: Offsetting Savings								
(12) Less: Other Reimbursements								
(13) Total Claimed Amount [Line (10) - {(line (11) + line (12))}]								

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Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES CLAIM SUMMARY FOR 08-09	FORM 1
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) Enter the number of full-time sworn peace officers who were employed by the agency during the fiscal year of claim.
- (05) **Flat Rate Method**
- Total Cost. Multiply the number of peace officers from line (04) by the flat rate for the total cost, and enter the result on line (05) and line (10).
- (06) **Actual Cost Method**
- Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row. Total each row.
- (07) Total Direct Costs. Total columns (a) through (g).
- (08) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using the flat rate of 10% of direct labor costs or using a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (07)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.
- (10) Total Direct and Indirect Costs. **Flat Rate Method:** Enter the total from line (05).
Actual Cost Method: Enter the sum of Total Direct Costs, line (07)(g), and Total Indirect Costs, line (09).
- (11) Less: Offsetting Savings. If applicable, enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (13) for the Reimbursement Claim.

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Local Mandated Cost Manual

Program 187	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 06-07						FORM 2	
(01) Claimant				(02) Fiscal Year				
(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.								
<input type="checkbox"/> Administrative Activities			<input type="checkbox"/> Interrogations					
<input type="checkbox"/> Administrative Appeal			<input type="checkbox"/> Adverse Comment					
(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training
(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ___ of ___								

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Local Mandated Cost Manual

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 06-07 Instructions	FORM 2
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For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
Travel										
Training	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

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Local Mandated Cost Manual

Program <div style="font-size: 24pt; font-weight: bold;">187</div>	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 07-08	FORM <div style="font-size: 24pt; font-weight: bold;">2</div>
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(01) Claimant	(02) Fiscal Year
---------------	------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Administrative Activities	<input type="checkbox"/> Interrogations
<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Adverse Comment

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training

(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ___ of ___							
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Revised 09/09

State Controller's Office

Local Mandated Cost Manual

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 07-08 Instructions	FORM 2
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For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
Travel										
Training	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

Revised 09/09

State Controller's Office

Local Mandated Cost Manual

Program <div style="font-size: 24pt; font-weight: bold;">187</div>	MANDATED COSTS PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 08-09	FORM <div style="font-size: 24pt; font-weight: bold;">2</div>
--	--	---

(01) Claimant	(02) Fiscal Year
---------------	------------------

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

<input type="checkbox"/> Administrative Activities	<input type="checkbox"/> Interrogations
<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Adverse Comment

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials And Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel And Training

(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: ___ of ___							
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Revised 09/09

State Controller's Office

Local Mandated Cost Manual

Program 187	PEACE OFFICERS PROCEDURAL BILL OF RIGHTS (POBOR) LOCAL AGENCIES ACTIVITY COST DETAIL FOR 08-09 Instructions	FORM 2
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For Actual Cost Method Use Only.

- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box that indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, benefits, materials and supplies used, contract services, and travel and training expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit will be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
Salaries	Employee Name & Title	Hourly Rate	Hours Worked	Salaries= Hourly Rate x Hours Worked						
Benefits	Activities Performed	Benefit Rate			Benefits+ Benefit Rate X Salaries					
Materials and Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost= Unit Cost X Quantity Used				
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost=Hourly Rate x Hours Worked or Total Contract Cost			Copy of Contract and Invoices
Fixed Assets	Description of Equipment Purchased	Unit Cost	Usage					Cost=Unit Cost x Usage		
Travel and Training	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel=Rate x Days or Miles	
Travel										
Training	Employee Name and Title Name of Class		Dates Attended						Registration Fee	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (06), columns (a) through (f) in the appropriate row.

Revised 09/09



JOHN CHIANG
California State Controller

December 22, 2014

Exhibit B

RECEIVED

December 22, 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, 12-4499-I-02

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

Fiscal Years: 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008

City of Los Angeles, 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

14905

**RESPONSE BY THE STATE CONTROLLER'S OFFICE
TO THE INCORRECT REDUCTION CLAIM (IRC) BY
THE CITY OF LOS ANGELES**

Peace Officers Procedural Bill of Rights Program

Table of Contents

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Declaration	Tab 1
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Statement of Decision, adopted November 30, 1999	Tab 3
Parameters and Guidelines, adopted August 17, 2000	Tab 4
Parameters and Guidelines, adopted December 4, 2006	Tab 5
Parameters and Guidelines, adopted March 28, 2008	Tab 6
Analysis of Salary and Benefit Costs, by Reimbursable Activity FY 2003-04, FY 2004-05, FY 2005-06, FY 2006-07, FY 2007-08.....	Tab 7
Commission on State Mandates' Proposed Parameters and Guidelines, Item 10 Peace Officers Procedural Bill of Rights Program, Commission Hearing Date July 27, 2000	Tab 8
Commission on State Mandates' Final Staff Analysis, Requests to Amend Parameters and Guidelines, Item 13, Peace Officers Procedural Bill of Rights Program, Commission Hearing Date December 4, 2006.....	Tab 9

Note: References to Exhibits relate to the city's IRC filed on September 28, 2012, as follows:

- Exhibit I – PDF page 10
- Exhibit II – PDF page 71
- Exhibit III – PDF page 108
- Exhibit IV – PDF page 133

References to Files relate to the city's Supplemental Material filed on October 10, 2012, as follows:

- File #1 – PDF page 2
- File #2 – PDF page 18
- File #3 – PDF page 24
- File #4 – PDF page 50
- File #5 – PDF page 85

Tab 1

1 **OFFICE OF THE STATE CONTROLLER**

2 Division of Audits

3 3301 C Street, Suite 725

4 Sacramento, CA 94816

5 Telephone No.: (916) 323-5849

6 BEFORE THE

7 COMMISSION ON STATE MANDATES

8 STATE OF CALIFORNIA

9
10 INCORRECT REDUCTION CLAIM (IRC)
11 ON:

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

14 Government Code Sections 3300-3310
15 Statutes 1976, Chapter 465; Statutes 1978,
16 Chapter 775, 1173, 1174, and 1178; Statutes
17 1979, Chapter 405; Statutes 1980, Chapter
18 1367; Statutes 1982, Chapter 994; Statutes
19 1983, Chapter 964; Statutes 1989, Chapter
20 1165; and Statutes 1990, Chapter 675

21 CITY OF LOS ANGELES. Claimant

IRC No.: 12-4499-I-02

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 am an employee of the SCO and am over the age of 18 years.
- 5) 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.

- 1 6) I reviewed the work performed by the SCO auditor.
- 2 7) Any attached copies of records are true copies of records, as provided by the City of Los
- 3 Angeles or retained at our place of business.
- 4 8) The records include claims for reimbursement, along with any attached supporting
- 5 documentation, explanatory letters, or other documents relating to the above-entitled Incorrect
- 6 Reduction Claim.
- 7 9) A field audit of the claims for fiscal year (FY) 2003-04, FY 2004-05, FY 2005-06, FY 2006-07,
- 8 and FY 2007-08 commenced February 10, 2009, and ended on September 29, 2009.

9 I do declare that the above declarations are made under penalty of perjury and are true and

10 correct to the best of my knowledge, and that such knowledge is based on personal

11 observation, information, or belief.

12 Date: December 22, 2014

13 OFFICE OF THE STATE CONTROLLER

14 By: 

15 Jim L. Spano, Chief
16 Mandated Cost Audits Bureau
17 Division of Audits
18 State Controller's Office
19
20
21
22
23
24
25

Tab 2

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE
TO THE INCORRECT REDUCTION CLAIM BY
THE CITY OF LOS ANGELES**

For Fiscal Year (FY) 2003-04, FY 2004-05, FY 2005-06, FY 2006-07, and FY 2007-08

**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 the City of Los Angeles submitted on September 28, 2012. The SCO audited the city's claims for costs of the legislatively mandated Peace Officers Procedural Bill of Rights (POBOR) Program for the period of July 1, 2003, through June 30, 2008. The SCO issued its final report on September 29, 2009 (**Exhibit III**).

The city submitted reimbursement claims totaling \$50,281,773 (**Exhibit IV**)—\$10,076,122 for fiscal year (FY) 2003-04, \$8,749,350 for FY 2004-05, \$9,395,485 for FY 2005-06, \$8,457,653 for FY 2006-07, and \$13,603,163 for FY 2007-08. Subsequently, the SCO audited these claims and determined that \$20,131,194 is allowable and \$30,150,579 is unallowable. The city claimed ineligible costs and misstated 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	\$ 4,858,882	\$ 2,110,512	\$ (2,748,370)
Benefits	1,519,373	654,782	(864,591)
Services and supplies	708,683	—	(708,863)
Total direct costs	7,086,938	2,765,294	(4,321,644)
Indirect costs	2,989,184	1,279,800	(1,709,384)
Total program costs	<u>\$ 10,076,122</u>	4,045,094	<u>\$ (4,321,644)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 4,045,094</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	\$ 4,401,434	\$ 1,751,065	\$ (2,650,369)
Benefits	1,599,249	636,890	(962,359)
Total direct costs	6,000,683	2,387,955	(3,612,728)
Indirect costs	2,748,667	1,114,991	(1,633,676)
Total program costs	<u>\$ 8,749,350</u>	3,502,946	<u>\$ (5,246,404)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 3,502,946</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries	\$ 4,985,402	\$ 1,993,037	\$ (2,992,365)
Benefits	1,916,184	765,985	(1,150,199)
Total direct costs	6,901,586	2,759,022	(4,142,564)
Indirect costs	2,493,899	1,012,656	(1,481,243)
Total program costs	<u>\$ 9,395,485</u>	3,771,678	<u>\$ (5,623,807)</u>
Less amount paid by the State ¹		(3,771,678)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries	\$ 4,516,381	\$ 1,800,575	\$ (2,715,806)
Benefits	1,966,746	784,387	(1,182,359)
Total direct costs	6,483,127	2,584,962	(3,898,165)
Indirect costs	1,974,526	797,347	(1,177,179)
Total program costs	<u>\$ 8,457,653</u>	3,382,309	<u>\$ (5,075,344)</u>
Less amount paid by the State ¹		(3,382,309)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries	\$ 6,699,960	\$ 2,664,537	\$ (4,035,423)
Benefits	3,184,851	1,267,328	(1,917,523)
Total direct costs	9,884,811	3,931,865	(5,952,946)
Indirect costs	3,718,352	1,497,302	(2,221,050)
Total program costs	<u>\$ 13,603,163</u>	5,429,167	<u>\$ (8,173,996)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 5,429,167</u>	

<u>Summary: July 1, 2003, through June 30, 2008</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
Direct costs:			
Salaries	\$ 25,462,059	\$ 10,319,726	\$ (15,142,333)
Benefits	10,186,403	4,109,372	(6,077,031)
Services and supplies	708,683	—	(708,683)
Total direct costs	36,357,145	14,429,098	(21,928,047)
Indirect costs	13,924,628	5,702,096	(8,222,532)
Total program costs	<u>\$ 50,281,773</u>	20,131,194	<u>\$ (30,150,579)</u>
Less amount paid by the State ¹		(7,153,987)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 12,977,207</u>	

Recap by Component

Administrative activities	\$ 4,072,635	\$ 179,583	\$ (3,893,052)
Interrogations	17,519,767	1,709,075	(15,810,692)
Adverse comment	28,689,371	18,242,536	(10,446,835)
Total program costs	<u>\$ 50,281,773</u>	<u>\$ 20,131,194</u>	<u>\$ (30,150,579)</u>

¹ Payment information current as of December 17, 2014.

I. PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM CRITERIA

Parameters and Guidelines – August 17, 2000

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 [Tab 4]. These parameters and guidelines are applicable to the county's FY 2003-04, FY 2004-05, and FY 2005-06 claims.

The Commission amended the parameters and guidelines [Tab 5] on December 4, 2006, pursuant to Statutes of 2005, Chapter 72, section 6 (AB 138), which added section 3313 to the Government Code to direct the Commission to review the statement of decision adopted in 1999 to clarify whether the subject legislation imposed a mandate consistent with the 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. The Commission found that the test claim legislation constitutes a state-mandated program with the following changes:

- 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 in which the chief of police is removed. (Stats. 1998, ch. 786, subsection 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 new punitive action protected by the due process

clause does not impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).

The Commission also added the SCO's "source document language" defining the types of documentation required to support claimed costs. Section IV, Reimbursable Activities, requires the city to claim actual costs. It states, in part:

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 cost are those cost actually incurred to implement the mandated activities. Actual cost 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...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 by the State Controller's Office.

These parameters and guidelines were the version extant for the city's FY 2006-07 claim.

The Commission amended the parameters and guidelines again [Tab 6] on March 28, 2008, to allow claimants the options of claiming costs using a reasonable reimbursement methodology or by filing an actual cost claim. These parameters and guidelines were the version extant for the city's FY 2007-08 claim. The city chose the option of filing an actual cost claim.

SCO Claiming Instructions

The SCO annually issues mandated cost claiming instructions, which contain filing instructions for mandated cost programs. The SCO issued POBOR Program claiming instructions on October 2, 2000. The October 2000 claiming instructions [File #1] are believed to be, for the purposes and scope of the audit period, substantially similar to the version extant at the time the city filed its mandated cost claims.

III. THE CITY CLAIMED UNALLOWABLE SALARIES, BENEFITS, AND RELATED INDIRECT COSTS

Issue

The city's IRC contests Finding 1 in the SCO's final audit report issued September 29, 2009 [Exhibit III], related to unallowable salaries, benefits, and related indirect costs. The SCO concluded that the city claimed ineligible salaries and benefits totaling \$21,464,469 [Tab 7] because costs claimed were for ineligible activities. Related unallowable indirect costs totaled \$8,307,090. The city believes that the SCO erred by limiting the scope of the eligible activities for the Administrative Activities, Interrogations, and Adverse Comment cost components. We will address the issues raised by the city by individual cost component in the same order that they were raised by the city.

Administrative Activities

SCO's Analysis

The city claimed salary and benefit costs for ineligible activities totaling \$2,746,417 [Tab 7]. The parameters and guidelines [Tab 4], section IV(A) (Administrative Activities, Ongoing Activities), allow for reimbursement of the following ongoing 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.
3. Updating the status of POBOR cases.

During our audit of the city's POBOR claims filed for FY 2003-04 through FY 2007-08, we examined the time study that the city conducted in FY 2003-04. During our examination of the city's time study, we determined that the following two activities are reimbursable:

- **Status** – This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per Los Angeles Police Department (LAPD) staff, the cases are updated for every activity and/or procedural change.
- **Assign** – This activity solely consists of updating the database and noting the case assignment to an investigator for adjudication.

We also determined that the following seven activities are not reimbursable:

- **Comment** – The ARS section in Internal Affairs (IA) performs this task by creating a file and a case number when the Professional Standards Bureau receives a "1.28" complaint form. Per LAPD staff, this activity is an internal procedure created by LAPD to ensure compliance with the investigation time frame of one year.
- **Locate** – This activity denotes the time required for the Classifications Unit to read the "1.28" (complaint form) and determine the best entity to perform the investigation. After determining which entity will investigate, the form is sent to the ARS.
- **Invest** – When the investigation is complete, the case file is sent to the Review and Evaluation Section. This activity consists of updating the database to note this information.
- **IA Review** – This activity consists of the time it takes to update the database for Internal Affairs' Group (IAG) review. Per LAPD staff, this activity is similar to Invest, but one IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. The IA review is another type of review and another change in status.
- **Appeal** – This activity takes place when the case is sent to the Advocate Section, where another file is created and entered into the Advocate Database. Per LAPD staff, the case is at this point, in the appeal phase and is no longer being investigated or reviewed. This activity pertains to the procedural process of transferring a case in the Advocate Unit, tracking the appeal process, and tracking the case.

- **Note** – This activity consists of distributing copies of the face sheet (which contains the summary of allegations and the names of the involved parties) to concerned entities. This activity occurs in the ARS and is based on the time it takes to update the database for the activity.
- **Close out** – The ARS closes out the case file and documents this activity. This activity is a database update function.

The Commission staff analysis (dated July 27, 2000) [Tab 8] for the proposed parameters and guidelines noted that “before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary hearings, and maintaining files for those cases.”

Accordingly, it is our understanding that reimbursement is unallowable for activities related to managing case files. The parameters and guidelines allow reimbursement for those activities that relate to updating the status report of the mandate-related activities.

City’s Response

Administrative Activities Cost Component

For the Administrative Activities cost component, the City claimed \$2,864,828 in salaries and benefits for the audit period. The SCO determined that \$118,411 is allowable and \$2,746,417 is unallowable. The SCO disallowed the costs because it believed the City claimed reimbursement for unallowable activities. Related unallowable indirect costs totaled \$1,054,878. The total disallowed costs were \$3,801,295.

The City claimed costs for nine activities under this component. The SCO determined that the following two activities are reimbursable:

- **Status:** This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per LAPD staff, the cases are updated for every activity and/or procedural change.
- **Assign:** This activity consists solely of updating the database and noting the case assignment to an investigator for adjudication.

The SCO disallowed all costs claimed for all other activities included in the Administrative Activities component of the claims. The seven activities as defined by the City’s Police Department are as follows:

- **Locate:** This activity denotes the time required for the Classifications Unit to read the complaint form and determine the best entity to perform the investigation. After determining which entity will investigate, the form is sent to the Administrative Records Section.
- **Invest:** When the investigation is complete, the case file is sent to the Review and Evaluation Section. This activity consists of updating the database to note this information.
- **IA Review:** This activity consists of the time it takes to update the database for Internal Affairs Group (IAG) review. Per LAPD staff, this activity is similar to Invest, but one IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It is another level of review and another change in status.
- **Appeal:** This activity takes place when the case is going to the Advocate Section, where another file is created and entered into the Advocate Database. Per LAPD staff, the case is in the appeal phase and is no longer being investigated or reviewed. This activity pertains to the procedural process of transferring a case in the Advocate Unit, tracking the appeal process, and tracking where the case is in the process.

- Note: This activity consists of distributing copies of the face sheet, which contains the summary of allegations and the names of the involved parties, to concerned parties. This activity occurs in ARS and is based on the time it takes to update the database for the activity.
- Close Out: Staff of ARS closes out the case file and documents this activity. This activity is a database update function.

The SCO's audit adjustment is based on their contention that the costs are unallowable because the City claimed reimbursement for activities that are not identified in the parameters and guidelines as reimbursable costs. As mentioned above, the SCO found that only two (2) of the nine (9) administrative activities included in the City's time study were allowable. The SCO determined that seven (7) administrative activities for which time was claimed by the City are not reimbursable because they include a number of administrative steps not covered by the parameters and guidelines and are not necessary to complete the administrative activities associated with each case. The SCO believes the activities are related to managing those case files.

The City finds the SCO has incorrectly interpreted the parameters and guidelines and statement of decision for the POBOR program. Their extremely narrow and limited interpretation has resulted in the disallowance of nearly 95% of the costs. The City does not agree with the SCO's interpretation of what is necessary to comply with the constitutional "due process" activities afforded all government employees and what additional activities are imposed on peace officers by the POBOR mandate. The City asserts that all of the seven activities are necessary for a local agency the size and complexity of the Los Angeles Police Department to carry out the administrative activities associated with the mandate.

SCO's Comment

The city states its belief that we deemed "that the seven (7) administrative activities for which time was claimed by the city are not reimbursable because they include a number of administrative steps not covered by the parameters and guidelines and are not necessary to complete the administrative activities associated with each case." While the city is correct that we deemed the seven activities to be outside the scope of the mandated program, our audit report does not state that the seven activities in question are "not necessary to complete the administrative activities associated with each case." The issue is whether or not those activities are reimbursable under the mandated program. We determined that the costs claimed were for activities related to managing case files, not the reimbursable activity of updating the status report of the mandate-related activities. Our final audit report [Exhibit III] was issued on September 29, 2009. Since that time, the city has not provided any additional information or clarification identifying how the seven activities in question constitute the reimbursable activity of updating the status report of the mandate-related activities.

The city also states, "that all of the seven activities are necessary for a local agency the size and complexity of the Los Angeles Police Department to carry out the administrative activities associated with the mandate." However, the size and complexity of the city's Police Department has no bearing on whether or not the costs are reimbursable under the mandated program.

The city also states that it "does not agree with SCO's interpretation of what is necessary to comply with the constitutional 'due process' activities afforded all government employees." However, our audit report includes no references or findings related to compliance with constitutionally protected due process activities. Further, we made no such interpretation when conducting our audit, as suggested by the city. The scope of our audit appears on page 2 of the audit report, which states:

We conducted our audit to determine whether costs claimed represent increased costs resulting from the POBOR Program for the period of July 1, 2003, through June 30, 2008. Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

The city 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 8), 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, it is still our contention that these activities are part of file maintenance activities that go beyond what the reimbursable activity intended and are unallowable for reimbursement. To the extent that the city claimed costs for activities not identified as reimbursable under the mandated program, the costs are unreasonable, regardless of the reason that the costs were incurred.

Interrogations

SCO's Analysis

The city claimed salary and benefit costs for ineligible activities totaling \$11,289,312 [Tab 7]. The parameters and guidelines [Tab 4] (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 city claimed the following 15 activities under the cost component of Interrogations:

1. Admin Task (Administrative Task)
2. Call out
3. CO Contact (Commanding Officer Contact)
4. Evidence Collect
5. Interview in person
6. Interview Telephone
7. Kickback Editing
8. Meet/Brief/Notify
9. Non-Evidence Task
10. Paraphrasing
11. Prep for Interview
12. Report Formatting
13. Telephone contact
14. Travel
15. VI Computer Task

The city did not provide a formal description of these activities. LAPD staff stated that these activities involved time for conducting investigations, collecting evidence, writing reports, and editing reports. We determined that these activities are unallowable because they relate to the investigation process. While the activities enumerated above were not included in the city's time study, we noted that the city's time study did include the following five activities under the component of Interrogations that were not included in its claims:

- **Interview** – Conducting the interrogation of the accused officer. The start and end time of the interrogation is noted. Per LAPD staff, interrogations usually take place during normal working hours and rarely happen during overtime (accused officer's off-duty time). The city's time study did not specify if and when the officers were paid overtime for the interviews.
- **ID, ID-A, ID-W** – Providing prior notice to the officer (accused and/or witness) regarding the nature of the interrogation and identification of the investigating officer. This activity occurs in the Administrative or Criminal Investigation Division.
- **Determine** – Determination of the investigating officers. This activity is assigned to the section Officer-in-Charge (OIC).
- **Tape** – Tape recording the interrogation. Per LAPD staff, this activity rarely happens. In fact, no time increments were claimed for the tape recording activity.
- **Booking tape** – Booking (storing) the tape at the Scientific Investigation Division.

We were able to calculate how much time was spent to conduct the five activities that were omitted from the city's claims. We also determined that four of the activities (ID, Determine, Tape, and Booking tape) are allowable and one activity (Interview) is unallowable. Interview is unallowable because the city indicated that most peace officer interviews occur during normal working hours. In addition, the city did not keep track of the instances when officers were compensated for interviews that took place during their off-duty time.

City's Response

For the Interrogations cost component, the city claimed \$12,505,518 in salaries and benefits for the audit period. The SCO determined that \$1,216,206 in salaries and benefits is allowable and \$11,289,312 is unallowable. The costs were unallowable because, according to the SCO, the City claimed reimbursement for unallowable activities. The related unallowable indirect costs totaled \$4,525,705. The total direct and indirect costs for the audit period were \$15,815,017.

The parameters and guidelines for the POBOR program allow the following activities for reimbursement under the Interrogation cost component:

- When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during the off-duty time in accordance with regular department procedures.
- Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers.
- Tape recording the interrogation when the peace officers employee records the interrogation.
- Providing the peace officer employee with access to the recording prior to any further investigation at a subsequent, or if any further proceedings are contemplated.

- 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.

The City claimed the following 15 activities under the cost component of Interrogations:

Admin Task (Administrative Task)
 Call Out
 Contact (Commanding Officer Contact)
 Evidence Collect
 Interview inperson
 Interview Telephone
 Kickback Editing
 Meet/Brief/Notify
 Non-Evidence Task
 Paraphrasing
 Prep for Interview
 Report Formatting
 Telephone Contact Travel
 VI Computer Task

The SCO determined that the activities above are unallowable because they relate to the investigation process. In explaining its position in its final audit report, the SCO referenced the CSM's final staff analysis. The SCO stated: "In reference to compensation and timing of the interrogation pursuant to Government Code section 3303, subdivision (a), the CSM final staff analysis to the adopted parameters and guidelines states:

It does not require local agencies to investigate an allegation, prepare for 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.

In addition, the amended parameters and guidelines (section VIC.-Interrogations) state that the Investigative activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses are not reimbursable.

The City disagrees with the State Controller's interpretation of the primary eligible activities of the Interrogation component. The City asserts the Parameters and Guidelines, as amended by the CSM based on the Controller's request at its March 28, 2008 hearing, do not accurately reflect the original Statement of Decision which found that eligible costs included: "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." The Controller has limited reimbursement to only officers being compensated for overtime. The City believes the costs for conducting interrogations during regular work time is reimbursable, as is preparation for those interrogations.

The City's position is based on the SCO's interpretation of the POBOR Parameters and Guidelines used when auditing the claims. That interpretation is not consistent with the Statement of Decision. The Statement of Decision is given deference when there is a discrepancy between the finding of a judicial body (CSM) and the documents that arise from that finding.

The Commission, in 1999, addressed the various POBOR test claim statutes which provide safeguards and protections of peace officers that are subject of investigation or discipline. Of primary concern is whether, or to what extent, these safeguards or protections were more

expansive that those already in existence through statute, case law and the Constitution. As evidenced in the SOD, the Commission clearly made sure it separated out the pre-existing due process rights and to delineate the scope and extent of those state mandated activities. The SOD stated:

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 the 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 this City, two-thirds of the police force works hours that are not consistent with the work hours of the Investigators in the Internal Affairs section. Even in smaller departments without such a section, hours conflict if command staff assigned to investigate works a shift different than the employees investigated. Payment of overtime occurs when 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 not 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. (See pages 12 and 13 of the SOD).

On November 30, 1999, the CSM adopted its SOD that the test claim legislation constitutes a partial reimbursable state mandated program. The City re-examined the statement of decision and noted that the SCO is taking the language in their response out of context. The language cited by the City is found in the SOD 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 payments of overtime to the investigated employee and, thus imposes reimbursable state mandated activities. (See page 12 and 13 of the SOD).

The use of the conjunctive "and" and the plural "requirements" refers to the fact that the Commission found that both costs of conducting the interrogation during on-duty hours and the costs of paying overtime for off-duty time are reimburseable [sic] activities of the mandate. Based on the above, the City believes it properly claimed the costs of conducting the interrogation while the officer was on duty and those costs for compensating officers when the interrogation was performed during off-duty hours.

SCO's Comment

The city is objecting to our determination that costs related to interrogations conducted during a police officer's regular on duty time are unallowable. This issue has appeared often in the administrative record of this mandated program. The city believes that the Commission determined costs for conducting interrogations during regular on-duty time and preparing for those interrogations to be allowable in the statement of decision and then erred when the parameters and guidelines were initially adopted and then again when the parameters and guidelines were amended. We disagree.

The city is relying solely on language that appears in the statement of decision. However, the statement of decision does not define the reimbursable activities. The purpose of the statement of decision [Tab 3] 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 the 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 [Tab 4].

We re-examined the statement of decision and noted that the city is taking the language cited in its response out of context. The language cited by the city is found in the Compensation and Timing of an Interrogation section of the statement of decision. 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.

Further, the city is basing its entire argument 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 city goes on to conclude that conducting investigations of peace officers is a reimbursable activity, which would include all investigative costs and interrogation costs incurred. This is an enhanced conclusion, given the circumstances surrounding the issue addressed by the Commission in that portion of the statement of decision.

The Commission evaluated only the test claimant's assertion that the test claim legislation imposed the payment of overtime to the investigated employee. The city ignores all of the language that prefaces the Commission staff analysis of this issue, which states that "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 admonition by a supervisor." The Commission even italicized the word "not" to make its point clear. 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. In addition, the test claimant's assertion and the Commission staff analysis in this section of the statement of decision did not include any references to investigation costs. Regardless, the city is using the Commission staff's language stating its conclusion about overtime costs as support for its contention that **all** interrogation and investigation costs are reimbursable. The city is apparently suggesting that the Commission staff 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 city's conclusion is unsupported and unreasonable.

To fully understand the Commission's intent in relation to the Interrogation activity, we also re-examined the Commission's staff analysis for the proposed parameters and guidelines (Item #10 for its hearing of July 27, 2000) [Tab 8] regarding the Interrogations cost 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 officer 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 [Tab 9] for Item #13 – Request to Amend Parameters and Guidelines for its hearing held on December 4, 2006. Page 22 of that analysis 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 the interrogation.

Therefore, to state that interrogations conducted during an officer's regular on-duty time, preparing for those interrogations, and conducting investigations of peace officers are reimbursable activities is contrary to the preponderance of evidence found in the administrative record for this mandated program.

The city 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 [Tab 4] (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 IVC (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 the adopted parameters and guidelines. Therefore, the preponderance of evidence on this issue does not support the city's contention.

Adverse Comment

SCO's Analysis

The city claimed salary and benefit costs for ineligible activities totaling \$7,428,740 [Tab 7]. 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 city claimed costs for 16 activities under this cost component. During our examination of the city's time study, we determined that the following 11 activities are reimbursable:

- **Review** – This activity involves the review of the "1.28" (complaint form) and the circumstances leading to the adverse comment. This is the preliminary review of the comment to determine if it is an adverse comment and warrants further investigation. The Complaint Classification Unit performs this activity. This activity also includes the time it takes to prepare a face sheet concerning the complaint.
- **Note** – This activity consists of providing notice to the peace officer of the adverse comment or complaint fact sheet. This activity is associated with the first notice of adverse comment to the officer that an investigation is taking place.
- **Respond** – This activity is also associated with providing first notice of adverse comment and that an investigation is taking place. The activity provides the officer with an opportunity to respond within 30 days.
- **Sign** – This activity occurs when the officer under investigation reviews and signs the adverse comment or complaint fact sheet, which is the first notice of complaint from Internal Affairs.

- **Refuse** – If the accused officer refuses to sign the face sheet or initial the adverse comment, the time involved is noted.
- **Approval** – This activity consists of the review by Internal Affairs Management of a completed case prior to sending the case to an Area or Division for notification to the officer under investigation.
- **Adjudication** – This activity consists of the time spent by the Command Officer (accused officer's supervisor) of the Area to adjudicate the complaint. This activity would include a review of the completed complaint and the formulation of a Letter of Transmittal (LOT).
- **CO review** – According to LAPD staff, CO review is closely tied with "Adjudication." This activity consists of the time spent by the commanding officer of the Area to review the complaint and LOT.
- **Preparation** – This activity consists of the preparation of the Charge Sheet for the Chief of Police to sign.
- **Serve** – This activity entails ensuring that the accused officer is served with the Charge Sheet and obtaining the officer's signature or noting the officer's refusal to sign the Charge Sheet.
- **Accuracy** – This activity involves reviewing the accused officer's response to the complaint or "1.28" (complaint form).

The city also claimed the following five activities that are not reimbursable:

- **Preliminary** – This activity involves investigating the circumstances surrounding the adverse comment.
- **Collect** – This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the area where the complaint was taken. This activity can include report writing, interviews, or any activity where information is gathered for the "1.28" (complaint form).
- **Area invest** – This activity consists of the time spent by the areas to investigate the complaint or "1.28" (complaint form). This activity occurs after the preliminary investigation.
- **Inspect** – This activity occurs when the assigned advocate reviews the investigation for status and thoroughness.
- **RE invest** – This activity involves the time needed to conduct any additional investigations.

These activities were unallowable because they are part of the city's investigative process and we noted that investigative activities are ineligible for reimbursement.

City's Response

The City claimed \$20,278,116 in salaries and benefits for the Adverse Comment component in the audit period. The Controller determined that \$12,849,376 is allowable and \$7,428,740 is unallowable. The SCO deemed the costs were unallowable because the City claimed reimbursement for unallowable activities. The related disallowed or unallowable indirect costs were \$2,726,507. The total disallowed costs contested by the City for this component is \$10,115,247.

The City identified 16 activities in its time study under this cost component. The Controller found that 11 activities were eligible for reimbursement and five were not. The City appreciates the fact the Controller did find the majority of the activities were reimbursable. Once again, the disagreement between the City and the SCO is over the interpretation of the parameters and guidelines and original statement of decision. The Controller commented the five disallowed activities are part of the investigative process and therefore, not reimbursable. It is the City's position that most of those activities are necessary to meet the mandated activities necessary to comply with the Adverse Comment requirements and therefore should be reimbursable. The activities which the SCO disallowed which City believes are eligible for reimbursement are as follows:

The five activities for which the City claimed costs that were disallowed by the State Controller's office are as follows:

- **Preliminary:** This activity involves investigating the circumstances surrounding the adverse comment.
- **Collect:** This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the Area where the complaint was taken. This activity can include report writing, interviews, or any activity in which information is gathered for the Police Department's complaint form.
- **Area Invest:** This activity consists of the time spent by Area staff to investigate the complaint. This activity occurs after the preliminary investigation.
- **Inspect:** This activity occurs when the assigned Advocate reviews the investigation for status and thoroughness.
- **RE Invest:** This activity involves the time needed to conduct any additional investigations.

The SCO pointed out that the amended parameters and guidelines (section IV.D.-Adverse Comment) state that -investigating a complaint, interviewing a complainant, and preparing a complaint investigation report are not reimbursable activities. As is the case with the other two claim components, Interrogations and Administrative Activities, the parameters and guidelines are not consistent with the mandate requirements and the original statement of decision.

SCO's Comment

The city states in its response that the reimbursable activities identified by the parameters and guidelines for the Adverse Comment cost component "are not consistent with the mandate requirements and the original statement of decision." However, the city did not indicate how the reimbursable activities cited in the parameters and guidelines for this cost component are inconsistent with the original statement of decision.

In its response to the draft audit report, the city stated "The City does not dispute the Controller's statement that the revised Parameters and Guidelines (section IV(D)-Adverse Comment) state that the 'investigating a complaint,' 'interviewing a complainant,' and 'preparing a complaint investigation report' are not reimbursable activities." In that audit report, we stated our determination that five activities included in the city's time study under the Adverse Comment cost component involved tasks related to conducting investigations and are not reimbursable activities under the mandated program. The city does not dispute its awareness of how we determined unallowable costs under this cost component.

Therefore, we conclude that the city is basing its argument that these activities are reimbursable on the Commission staff analysis for the payment of overtime to peace officers being interrogated. This analysis was addressed above for costs claimed under the Interrogations cost component and was pled by the test claimant for activities appearing in Government Code section 3303, subdivision (a). The

costs for Adverse Comment were pled by the test claimant for activities appearing in Government Code sections 3305 and 3306. Accordingly, costs claimed under the Adverse Comment cost component have no relevance to costs claimed under the Interrogations cost component. The city's position is an expanded interpretation of the language in the parameters and guidelines that is taken out of context. The costs for conducting investigations 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 one of allowable activities for this component. We noted in the audit report the 11 activities included in the city's time study that related to the reimbursable activities cited in the Adverse Comment cost component. However, other activities relating to starting an investigation, conducting an investigation, summarizing investigation results, and conducting any additional investigations are not reimbursable under the mandated program.

III. CONCLUSION

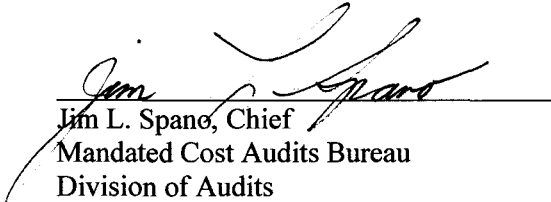
The SCO audited the City of Los Angeles' claims for costs of the legislatively mandated Peace Officers Procedural Bill of Rights Program (Government Code Sections 3300-3310 Statutes 1976, Chapter 465; Statutes 1978, Chapter 775, 1173, 1174, and 1178; Statutes 1979, Chapter 405; Statutes 1980, Chapter 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, 2008. The city claimed \$50,281,773 for the mandated program. Our audit found that \$20,131,194 is allowable and \$30,150,579 is unallowable. The costs are unallowable primarily because the city claimed ineligible costs.

The Commission should find that: (1) the SCO correctly reduced the city's FY 2003-04 claim by \$6,031,028; (2) the SCO correctly reduced the city's FY 2004-05 claim by \$5,246,404; (3) the SCO correctly reduced the city's FY 2005-06 claim by \$5,623,807; (4) the SCO correctly reduced the city's FY 2006-07 claim by \$5,075,344; and (5) the SCO correctly reduced the city's FY 2007-08 claim by \$8,173,996.

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 22, 2014, at Sacramento, California, by:


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

Tab 3

**BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA**

IN RE TEST CLAIM:

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; and

Filed on December 21, 1995;

By the City of Sacramento, Claimant.

NO. CSM 4499

Peace Officers Procedural Bill of Rights


**STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ. ;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7**

(Adopted November 30, 1999)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on December 1, 1999.


Paula Higashi, Executive Director

**BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA**

IN RE TEST CLAIM:

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; and

Filed on December 21, 1995;

By the City of Sacramento, Claimant.

NO. CSM 4499

Peace Officers Procedural Bill of Rights

**STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ.;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7**

(Adopted November 30, 1999)

STATEMENT OF DECISION

On August 26, 1999 the Commission on State Mandates (Commission) heard this test claim during a regularly scheduled hearing. Ms. Pamela A. Stone appeared for the City of Sacramento. Mr. Allan Burdick appeared for the League of California Cities/SB 90 Service. Ms. Elizabeth Stein appeared for the California State Personnel Board. Mr. James Apps and Mr. Joseph Shinstock appeared for the Department of Finance. The following persons were witnesses for the City of Sacramento: Ms. Dee Contreras, Director of Labor Relations, and Mr. Edward J. Takach, Labor Relations Officer.

At the hearing, oral and documentary evidence was introduced, the test claim was submitted, and the vote was taken.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 et seq. and section 6, article XIII B of the California Constitution and related case law.

The Commission, by a vote of 5 to 1, approved this test claim.

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BACKGROUND

In 1976, the Legislature enacted Government Code sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights Act. The test claim legislation 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. Legislative intent is expressly provided in Government Code section 3301 as follows:

"The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, within the State of California. "

The test claim legislation applies to all employees classified as "peace officers" under specified provisions of the Penal Code, including those peace officers employed by counties, cities, special districts and school districts.¹ The test claim legislation also applies to peace officers that are classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at-will" employees)² and peace officers on probation who have not reached permanent status.³

COMMISSION FINDINGS

Issue: Does the test claim legislation, which establishes 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 17514⁴?

For a statute to impose a reimbursable state mandated program, the statutory language must direct or obligate an activity or task upon local governmental agencies. In addition, the required

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."

² *Gray v. City of Gustine* (1990) 224 Cal.App.3d 621; *Binkley v. City of Long Beach* (1993) 16 Cal.App.4th 1795.

³ *Bell v. Duffy* (1980) 111 Cal.App.3d 643; *Barnes v. Personnel Department of the City of El Cajon* (1978) 87 Cal.App.3d 502.

⁴ Government Code section 17514 defines "costs mandated by the state" as follows: "Costs mandated by the state' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

activity or task must be new, thus constituting a "new program", or create an increased or "higher level of service" over the former required level of service. The court has defined a "new program" or "higher level of service" as a program that carries out the governmental function of providing services to the public, or a law which, to implement a state policy, imposes unique requirements on local agencies and does not apply generally to all residents and entities in the state. To determine if a required activity is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately prior to the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must be state mandated and impose "costs mandated by the state."

The test claim legislation requires local agencies and school districts to take specified procedural steps when investigating or disciplining a peace officer employee. The stated purpose of the test claim legislation is to promote stable relations between peace officers and their employers and to ensure the effectiveness of law enforcement services. Based on the legislative intent, the Commission found that the test claim legislation carries out the governmental function of providing a service to the public. Moreover, the test claim legislation imposes unique requirements on local agencies and school districts that do not apply generally to all residents and entities of the state. Thus, the Commission determined that the test claim legislation constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The Commission recognized, however, that several California courts have analyzed the test claim legislation and found a connection between its requirements and the requirements imposed by the due process clause of the United States and California Constitutions. For example, the court in *Riveros v. City of Los Angeles* analyzed the right to an administrative appeal under the test claim legislation for a probationary employee and noted that the right to such a hearing arises from the due process clause.

"The right to such a hearing arises from the due process protections of the Fourteenth Amendment to the United States Constitution. . . . The limited purpose of the section 3304 appeal is to give the peace officer a chance to establish a formal record of the circumstances surrounding his termination and try to convince his employer to reverse its decision, either by showing that the charges are false or through proof of mitigating circumstances [citation omitted]. This is very nearly the same purpose for the hearing mandated by due process requirements, which must afford the officer a chance to refute the charges or clear his name. " (Emphasis added .)⁶

Thus, the Commission continued its inquiry and compared the test claim legislation to the prior legal requirements imposed on public employers by the due process clause to determine if the activities defined in the test claim legislation are new or impose a higher level of service.

⁵ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; Gov. Code, § 17514.

⁶ *Riveros v. City of Los Angeles* (1996) 41 Cal.App.4th 1342, 1359.

The Commission also considered whether there are any "costs mandated by the state." Since the due process clause of the United States Constitution is a form of federal law, the Commission recognized that Government Code section 17556, subdivision (c), is triggered. Pursuant to Government Code section 17556, subdivision (c), there are *no* "costs mandated by the state" and no reimbursement is required if the test claim legislation "implemented a federal law resulting in costs mandated by the federal government, unless the [test claim legislation] mandates costs which exceed the mandate in that federal law or regulation. "⁷

These issues are discussed below.

The Due Process Clause of the U.S. and California Constitutions

The due process clause of the United States and California Constitutions provide that the state shall not "deprive any person of life, liberty, or property without due process of law. "⁸ In the public employment arena, an employee's property and liberty interests are commonly at stake.

Property Interest in Employment

Property interests protected by the due process clause extend beyond actual ownership of real estate or money. The U.S. Supreme Court determined that a property interest deserving protection of the due process clause exists when an employee has a "legitimate claim" to continued employment.

"To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. . . ."

"Property interests, of course, are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law - rules or understandings that secure certain benefits and that support claims of entitlement to those benefits. "⁹

Applying the above principles, both the U.S. Supreme Court and California courts hold that "permanent" employees, who can only be dismissed or subjected to other disciplinary

⁷ Government Code section 17513 defines "costs mandated by the federal government" as follows:

" 'Costs mandated by the federal government' means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. 'Costs mandated by the federal government' includes costs resulting from enactment of state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state. 'Costs mandated by the federal government' does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district. "

⁸ U.S. Constitution, 14th Amendment; California Constitution, Article 1, §§ 7 and 15.

⁹ *Board of Regents v. Roth* (1972) 408 U.S. 564, 577.

measures for "cause", have a legitimate claim of entitlement to their job and thus, possess a property interest in continued employment.¹⁰

Moreover, California courts require employers to comply with due process when a permanent employee is dismissed¹¹, demoted¹², suspended¹³, receives a reduction in salary¹⁴ or receives a written reprimand.¹⁵

The Department of Finance and the State Personnel Board contended that due process property rights attach when an employee is transferred. They cited *Runyon v. Ellis* and an SPB Decision (*Ramallo* SPB Dec. No. 95-19) for support.

The Commission disagreed with the State's argument in this regard. First, in *Runyon v. Ellis*, the court found that the employee was entitled to an administrative hearing under the due process clause as a result of a transfer and an accompanying reduction of pay. The court did not address the situation where the employee receives a transfer alone.¹⁶ In addition, in *Howell v. County of San Bernardino*, the court recognized that "[a]lthough a permanent employee's right to continued employment is generally regarded as fundamental and vested, an employee enjoys no such right to continuation in a particular job assignment."¹⁷ Thus, the Commission found that local government employers are not required to provide due process protection in the case of a transfer.

Furthermore, although the SPB decision may apply to the State as an employer, the Commission found that that the SPB decision does not apply to actions taken by a local government employer.

Accordingly, the Commission found that an employee does not enjoy the rights prescribed by the due process clause when the employee is transferred.

When a property interest is affected and due process applies, the procedural safeguards required by the due process clause generally require notice to the employee and an opportunity to respond, with some variation as to the nature and timing of the procedural safeguards. In cases of dismissal, demotion, long-term suspension and reduction of pay, the California

¹⁰ *Slochower v. Board of Education* (1956) 350 U.S. 55 1, where the U.S. Supreme Court found that a tenured college professor dismissed from employment had a property interest in continued employment that was safeguarded by the due process clause; *Gilbert v. Homar* (1997) 520 U.S. 924, where the U.S. Supreme Court found that a police officer, employed as a permanent employee by a state university, had a property interest in continued employment and was afforded due process protections resulting from a suspension without pay; *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, where the California Supreme Court held a permanent civil service employee of the state has a property interest in continued employment and cannot be dismissed without due process of law.

¹¹ *Skelly, supra*, 15 Cal.3d 194.

¹² *Ng v. State Personnel Board* (1977) 68 Cal. App. 3d 600.

¹³ *Civil Service Assn. v. City and County of San Francisco* (1978) 22 Cal.3d 552, 558-560.

¹⁴ *Ng, supra*, 68 Cal.App.3d 600, 605.

¹⁵ *Stanton v. City of West Sacramento* (1991) 226 Cal.App.3d 1438.

¹⁶ *Runyon v. Ellis* (1995) 40 Cal.App.4th 961.

¹⁷ *Howell v. County of San Bernardino* (1983) 149 Cal.App.3d 200, 205.

Supreme Court in *Skelly* prescribed the following due process requirements *before* the discipline becomes effective:

- Notice of the proposed action;
- The reasons for the action;
- A copy of the charges and materials upon which the action is based; and
- The right to respond, either orally or in writing, to the authority initially imposing discipline.¹⁸

In cases of short-term suspensions (ten days or less), the employee's property interest is protected as long as the employee receives notice, reasons for the action, a copy of the charges, and the right to respond *either during the suspension, or within a reasonable time thereafter*.¹⁹

Similarly, the Commission found that in the case of a written reprimand where the employee is not deprived of pay or benefits, the employer is not required to provide the employee with the due process safeguards *before* the effective date of the written reprimand. Instead, the court in *Stanton* found that an appeals process provided to the employee *after* the issuance of the written reprimand satisfies the due process clause.²⁰

The claimant disagreed with the Commission's interpretation of the *Stanton* case and its application to written reprimands.

The claimant contended *Stanton* stands for the proposition that the due process guarantees outlined in *Skelly* do not apply to a written reprimand. Thus, the claimant concluded that an employee is not entitled to any due process protection when the employee receives a written reprimand. The claimant cited the following language from *Stanton* in support of its position:

"... As the City notes, no authority supports plaintiff's underlying assertion that issuance of a written reprimand triggers the due process safeguards outlined in *Skelly*. Courts have required adherence to *Skelly* in cases in which an employee is demoted [citations omitted] ; suspended without pay [citations omitted] ; or dismissed [citations omitted]. We find no authority mandating adherence to *Skelly* when a written reprimand is issued. "

"We see no justification for extending *Skelly* to situations involving written reprimands. Demotions, suspension and dismissal all involve depriving the public employee of pay or benefits; a written reprimand results in no such loss to the employee. "

The facts in *Stanton* are as follows. A police officer received a written reprimand for discharging a weapon in violation of departmental rules. After he received the reprimand, he appealed to the police chief in accordance with the memorandum of understanding and the

¹⁸ *Skelly, supra*, Cal.3d 194, 215.

¹⁹ *Civil Service Act*, Cal.3d 562, 564.

²⁰ *Stanton, supra* 226 Cal.App.3d 1438, 1442.

police chief upheld the reprimand. The officer then filed a lawsuit contending that he was entitled to an administrative appeal. The court denied the plaintiff's request finding that the meeting with the police chief satisfied the administrative appeals provision in the test claim legislation (Government Code section 3304), and thus, satisfied the employee's due process rights.

The Commission agreed that the court in *Stanton* held the rights outlined in *Skelly* do not apply when an employee receives a written reprimand. Thus, under *Skelly*, the rights to receive notice, the reasons for the reprimand, a copy of the charges and the right to respond are not required to be given to an employee *before* the reprimand takes effect.

However, the court found that the employee is guaranteed due process protection upon receipt of a written reprimand. The court found that when the appeals process takes place *after* the reprimand, due process is satisfied. The court in *Stanton* also states the following:

"Moreover, Government Code section 3303 et seq., the Public Safety Officer Procedural Bill of Rights Act, provides police officers who are disciplined by their departments with procedural safeguards. Section 3304, subdivision (b) states no punitive action may be taken by a public agency against a public safety officer without providing the officer with an opportunity for administrative appeal. Punitive action includes written reprimands. [Citation omitted.] Even without the protection afforded by *Skelly*, plaintiff's *procedural due process rights*, following a written reprimand,' *are protected* by the appeals process mandated by Government Code section 3304, subdivision (b). " (Emphasis added.)²¹

Accordingly, the Commission found that the due process clause of the United States and California Constitutions apply when a permanent employee is

- Dismissed;
- Demoted;
- Suspended;
- Receives a reduction in salary; and
- Receives a written reprimand.

Liberty Interest

Although probationary and at-will employees, who can be dismissed without cause, do not have a property interest in their employment, the employee may have a liberty interest affected by a dismissal when the charges supporting the dismissal damage the employee's reputation and impair the employee's ability to find other employment. The courts have defined the liberty interest as follows:

"[A]n employee's liberty is impaired if the government, in connection with an employee's dismissal or failure to be rehired, makes a 'charge

²¹ *Stanton, supra*, 226 Cal.App.3d 1438, 1442.

against him that might seriously damage his standing and associations in the community, ' such as a charge of dishonesty or immorality, or would 'impose on him a stigma or other disability that foreclosed his freedom to take advantage of other employment opportunities. ' [Citations omitted.] A person's protected liberty interests are not infringed merely by defamatory statements, for an interest in reputation alone is not a constitutionally protected liberty interest. [Citations omitted.] Rather, the liberty interest is infringed only when the defamation is made in connection with the loss of a government benefit, such as, . . . employment. [Citations omitted.] " 22

For example, in *Murden v. County of Sacramento*, the court found a protected liberty interest when a *temporary* deputy sheriff was dismissed from employment based on charges that he was engaging two female employees in embarrassing and inappropriate conversation regarding sexual activities. The court noted that the charge impugned the employee's character and morality, and if circulated, would damage his reputation and impair his ability to find other employment.

The court in *Murden* clarified that a dismissal based on charges that the employee was unable to learn the basic duties of the job does *not* constitute a protected interest.²³

When the employer infringes on a person's liberty interest, due process simply requires notice to the employee, and an opportunity to refute the charges and clear his or her name. Moreover, the "name-clearing" hearing can take place *after* the actual dismissal.²⁴

Accordingly, the Commission found that the due process clauses of the United States and California Constitutions apply when the charges supporting the dismissal of a probationary or at-will employee damage the employee's reputation and impair the employee's ability to find other employment.

Test Claim Legislation

As indicated above, employers are required by the due process clause to offer notice and hearing protections to *permanent* employees for dismissals, demotions, suspensions, reductions in salary and written reprimands.

Employers are also required by the due process clause to offer notice and hearing protections to *probationary* and *at-will* employees when the dismissal harms the employee's reputation and ability to obtain future employment.

As more fully discussed below, the Commission found that the test claim legislation imposes some of the *same* notice and hearing requirements imposed under the due process clause.

²² *Murden v. County of Sacramento* (1984) 160 Cal.App.3d 302, 308, quoting from *Board of Regents v. Roth*, *supra*, 408 U.S. at p. 573. See also *Paul v. Davis* (1976) 424 U.S. 693, 711-712; and *Lubey v. City and County of San Francisco* (1979) 98 Cal.App.3d 340.

²³ *Murden, supra* 0 Cal.App.3d, 308.

²⁴ *Murden, supra* 60 Cal.App.3d 302, 310; *Arnett v. Kennedy* (1974) 416 U.S. 134, 157; and *Codd v. Velger* (1977) 429 U.S. 624, 627.

Administrative Appeal

Government Code section 3304, as added by the test claim legislation, provides 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."²⁵

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 salary²⁶, 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.²⁷ Thus, in transfer 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.^{28, 29}

In addition, at least one California appellate court determined that employers must extend the right to an administrative appeal under the test claim legislation to peace officers for other actions taken by the employer that result in "disadvantage, harm, loss or hardship" and impact the peace officer's career.³⁰ In *Hopson*, the court found that an officer who received a report in his personnel file by the police chief regarding a shooting in violation of policies and procedures was entitled to an administrative appeal under Government Code section 3304. The court held that the report constituted "punitive action" under the test claim legislation

²⁵ In the Claimant's comments to the Draft Staff Analysis, the claimant recited Government Code section 3304, as amended in 1997 (*Stats. 1997, c. 148*) and 1998 (*Stats. 1998, c. 786*). These amendments made substantive changes to Government Code section 3304 by adding subdivisions (c) through (g). These changes include a statute of limitations concerning how long the agency can use acts as a basis for discipline, a provision prohibiting the removal of a chief of police without providing written notice describing the reasons for the removal and an administrative hearing, and a provision limiting the right to an administrative appeal to officers who successfully complete the probationary period. The Commission noted that *neither the 1997 nor 1998 statutes are alleged in this test claim.*

²⁶ 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.

²⁷ *White v. County of Sacramento* (1982) 31 Cal.3d 676.

²⁸ *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.

²⁹ The claimant testified that what constitutes a transfer for purposes of punishment is in the eyes of the employee. The claimant stated that in the field of labor relations, peace officers will often request a full POBOR hearing and procedure on a transfer which is not acceptable to the officer in question, even though the transfer is not accompanied by a reduction in pay or benefits and no disciplinary action has been taken.

³⁰ *Hopson v. City of Los Angeles* (1983) 139 Cal.App.3d 347, 354, relying on *White v. County of Sacramento* (1982) 31 Cal.3d 676, 683.

based on the source of the report, its contents, and its potential impact on the career of the officer.³¹

The Commission recognized that the test claim legislation does not specifically set forth the hearing procedures required for the administrative appeal. Rather, the type of administrative appeal is left up to the discretion of each local agency and school district.³² The courts have determined, however, that the type of hearing required under Government Code section 3304 must comport with standards of fair play and due process.^{33, 34}

The Department of Finance and the State Personnel Board contended that Government Code section 3304 does not require an administrative appeal for probationary and at-will employees. They cited Government Code section 3304, subdivision (b), as it is *currently* drafted, which provides the following: "No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has *successfully completed the probationary period that may be required by his or her employing agency* without providing the public safety officer with an opportunity for administrative appeal."

However, the Commission determined that the italicized language in section 3304, subdivision (b), was added by the Legislature in 1998 and became effective on January 1, 1999. (Stats. 1998, c. 768). When Government Code section 3304, subdivision (b), was originally enacted in 1976, it did not limit the right to an administrative appeal to permanent employees only. Rather, that section stated the following:

"(b) 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."

Accordingly, the Commission found that an administrative appeal under Government Code section 3304, subdivision (b), was required to be provided to probationary and at-will employees faced with punitive action or a denial of promotion until December 31, 1998.

The Department of Finance also contended that the cost of conducting an administrative hearing is already required under the due process clause and the *Skelly* case, which predate the test claim legislation.

³¹ *Id.* at p. 353-354.

³² *Binkley v. City of Long Beach* (1993) 16 Cal.App.4th 1795, 1806; *Runyan, supra*, 40 Cal.App.4th 961, 965.

³³ *Doyle v. City of Chino* (1981) 117 Cal. App. 3d 673, 684. In addition, the court in *Stanton v. City of West Sacramento* (1991) 226 Cal.App.3d 1438, 1442, held that the employee's due process rights were protected by the administrative appeals process mandated by Government Code section 3304. Furthermore, in cases involving "misconduct", the officer is entitled to a liberty interest name-clearing hearing under Government section 3304. (*Lubey v. City and County of San Francisco* (1979) 98 Cal.App.3d 340; *Murden, supra*).

³⁴ The Commission noted that at least two cases have referred to the need for an administrative appeals procedure that would enable the officer to obtain court review pursuant to Code of Civil Procedure section 1094.5. Such a review implies that an evidentiary hearing be held from which a record and findings may be prepared for review by the court. (*Doyle, supra*, 117 Cal.App. 3d 673; *Henneberque, supra*, 147 Cal.App.3d 250.) In addition, the California Supreme Court uses the words "administrative appeal" of section 3304 interchangeably with the word "hearing." (*White, supra*, 31 Cal.3d 676.)

The Commission agreed that in some circumstances, the due process clause requires the same administrative hearing as the test claim legislation. However, as reflected by the table below, the Commission found that test claim legislation is broader than the due process clause and applies to additional employer actions that have not previously enjoyed the protections of the due process clause.

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Due Process	Test Claim Legislation
Dismissal of a permanent employee	Dismissal of permanent, <i>probationary</i> or <i>at-will</i> employees
Demotion of a permanent employee	Demotion of permanent, <i>probationary</i> or <i>at-will</i> employees
Suspension of a permanent employee	Suspension of permanent, <i>probationary</i> or <i>at-will</i> employees
Reduction in salary for a permanent employee	Reduction in salary for permanent, <i>probationary</i> or <i>at-will</i> employees
Written reprimand of a permanent employee	Written reprimand of permanent, <i>probationary</i> or <i>at-will</i> employees
Dismissal of a probationary or at-will employee which harms the employee's reputation and ability to find future employment	Dismissal of a probationary or at-will employee which harms the employee's reputation and ability to find future employment
	Transfer of a permanent, probationary or at-will employee for purposes of punishment
	Denial of promotion for permanent, probationary or at-will employees on grounds other than merit
	Other actions against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee

Thus, the Commission found that the administrative appeal 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 17556, 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 found, however, that the due process clauses of the United States and California Constitutions do not require an administrative appeal in the following circumstances:

- 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 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.

Thus, in these situations, the Commission found that the administrative appeal required by Government Code section 3304 constitutes a new program or higher level of service and imposes "costs mandated by the state" under Government Code section 17514.

Compensation and Timing of an Interrogation

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.³⁵

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. The claimant stated the following:

"If a typical police department works in three shifts, such as the Police Department for this City, two-thirds of the police force work hours [that are] not consistent with the work hours of Investigators in the Internal Affairs section.

³⁵ Gov. Code, § 3303, subd. (i).

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 department procedures are new requirements not previously imposed on local agencies and school districts.

Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code section 17514.

Notice Prior to Interrogation

Government Code section 3303, 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 to the employee.

The Commission recognized that under due process principles, an employee with a property interest is entitled to notice of the disciplinary action proposed by the employer.³⁶ Thus, an employee is required to receive notice when the employee receives a dismissal, suspension, demotion, reduction in salary or receipt of a written reprimand. Due process, however, *does not* require notice prior to an investigation or interrogation since the employee has not yet been charged and the employee's salary and employment position have not changed.

Accordingly, the Commission found that providing the employee with prior notice regarding the nature of the interrogation and identifying the investigating officers constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code section 17514.

Tape Recording of Interrogation

Government Code section 3303, subdivision (g), provides, in relevant part 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 being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation. " (Emphasis added.)

The claimant contended that the activity of tape recording the interrogation and providing the peace officer with the tape recording of the interrogation as specified in section 3303, subdivision (g), constitute reimbursable state mandated activities. The claimant stated the following:

³⁶ *Skelly, supra*, 15 Cal.3d 194.

"As shown above, Government Code, section 3303 (g) allows the interrogation of a peace officer to be tape recorded. The section is silent as to whom may record the interrogation, and who may request that the session be recorded. In practice, the employee will almost always request to record the interrogation. As the employee desires to record same, the employer is faced with the requirement of also tape recording the interrogation in order to assure that the employee's tape is not edited, redacted, or changed in any manner, and to have a verbatim record of the proceedings. ³⁷

At the hearing, Ms. Dee Contreras, Director of Labor Relations for the City of Sacramento, testified as follows:

"If the employee comes in and tapes, and, trust me, they all come in and tape, if they're sworn peace officers, their attorneys come in with tapes. You wind up with two tape recorders on a desk. If they tape and we do not, then they have a record that we do not have or we must rely on a tape created by the employee we are investigating. That would not be a wise choice, from the employer's perspective. "

"If we take notes and they tape, our notes are never going to be exactly the same as the tape is going to be if it's transcribed, so we wind up with what is arguably an inferior record to the record that they have. "

"So it is essentially - - it says they may tape but the practical application of that is: For everybody who comes in with a tape recorder to tape, which is virtually every peace officer, we then must tape. ³⁸

The Department of Finance disagreed and contended that the test claim statute does not require local agencies to tape the interrogation. The Department further contended that if the local agency decides to tape the interrogation, the cost of providing the tape to the officer is required under the due process clause.

Based on the evidence presented at the hearing, the Commission recognized the reality faced by labor relations' professionals in their implementation of the test claim legislation. Accordingly, the Commission found that tape recording the interrogation when the employee records the interrogation is a mandatory activity to ensure that all parties have an accurate record. The Commission's finding is also consistent with the legislative intent to assure stable employer-employee relations are continued throughout the state and that effective services are provided to the people. ³⁹

³⁷ Claimant's comments to Draft Staff Analysis.

³⁸ August 26, 1999 Hearing Transcript, page 18, lines 7-2 1.

³⁹ This finding is consistent with one of the principles of statutory construction that "where statutes provide for performance of acts or the exercise of power or authority by public officers protecting private rights or in public interest, they are mandatory. " (3 Sutherland, Statutory Construction (5th ed. 1992) § 57.14, p. 36.) See also section 1183.1 of the Commission's regulations, which provides that the parameters and guidelines adopted on a mandated program shall provide a description of the most reasonable methods of complying with the mandate.

The Commission also recognized that Government Code section 3303, subdivision (g), requires that the employee shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The Commission found that providing the employee with access to the tape *prior to a further interrogation at a subsequent time* is a new activity and, thus, constitutes a new program or higher level of service.

However, the Commission found that providing the employee with access to the tape *if further proceedings are contemplated* does not constitute a new program or higher level of service when the further proceeding is a disciplinary action protected by the due process clause. Under certain circumstances, due process already requires the employer to provide an employee who holds either a property or liberty interest in the job with the materials upon which the disciplinary action is based.

Accordingly, the Commission found that even in the absence of the test claim legislation, the due process clause requires employers to provide the tape recording of the interrogation to the employee 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 dismissal⁴⁰; and when
- The disciplinary action is based, in whole or in part, on the interrogation of the employee.

Under these circumstances, the Commission found that the requirement to provide access to the tape recording of the interrogation under the test claim legislation *does not* impose a new program or higher level of service because this activity was required under prior law through the due process clause. Moreover, pursuant to Government Code section 17556, subdivision (c), the costs incurred in providing access to the tape recording merely implements the requirements of the United States Constitution.

However, when the further proceeding does not constitute a disciplinary action protected by due process, the Commission found that providing the employee with access to the tape is a new activity and, thus, constitutes a new program or higher level of service.

In sum, the Commission found that the following activities constitute reimbursable state mandated activities :

- Tape recording the interrogation when the employee records the interrogation.
- 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:
 - (a) The further proceeding is not a disciplinary action;

⁴⁰ Skelly, *supra*; Ng, *supra*; Civil Service Assn., *supra*; Stanton, *supra*; Murden, *supra*.

- (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.

Documents Provided to the Employee

Government Code section 3303, subdivision (g), also provides that the peace officer "shall" be entitled to a transcribed copy of any interrogation notes made by a stenographer or any reports or complaints made by investigators or other persons, except those that are deemed to be confidential.

The Department of Finance and the SPB contended that the cost of providing copies of transcripts, reports and recordings of interrogations are required under the due process clause and, thus, do not constitute a reimbursable state mandated program.

In *Pasadena Police Officers Association*, the California Supreme Court analyzed Government Code section 3303, noting that it does not specify when an officer is entitled to receive the reports and complaints. The court also recognized that section 3303 does not specifically address an officer's due process entitlement to discovery in the event the officer is *charged* with misconduct.⁴¹ Nevertheless, the court determined that the Legislature intended to require law enforcement agencies to disclose the reports and complaints to an officer under investigation only *after* the officer's interrogation.⁴²

The Commission recognized that the court's decision in *Pasadena Police Officers Association* is consistent with due process principles. Due process requires the employer to provide an employee who holds either a property or liberty interest in the job with a copy of the charges and materials upon which the disciplinary action is based when the officer is charged with misconduct.⁴³

Accordingly, even in the absence of the test claim legislation, the Commission found that the due process clause requires the employer to provide a copy of all investigative materials, including non-confidential complaints, reports and charges when, as a result of the interrogation,

⁴¹ *Pasadena Police Officers Assn. v. City of Pasadena* (1990) 51 Cal.3d 564, 575 (Exhibit A, Bates page 0135).

⁴² *Id.* at 579.

⁴³ *Skelly, supra.*

- 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 requirement to produce documents under the test claim legislation *does not* impose a new program or higher level of service because this activity was required under prior law through the due process clause. Moreover, the Commission recognized that pursuant to Government Code section 17556, subdivision (c), the costs incurred in providing the investigative materials in the above circumstances would not constitute "costs mandated by the state" since producing such documentation merely implements the requirements of the United States constitution.

However, the Commission found that the due process clause does not require employers to produce the charging documents and reports when requested by the officer in the following circumstances:

- (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 employees 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 opportunities of the employee.

The Department of Finance and the State Personnel Board disagreed with this conclusion. They contended that "State civil service probationary or at-will employees are entitled to [the due process rights prescribed by] *Skelly* by the State Personnel Board" to the charging documents and reports and, thus, Government Code section 3303, subdivision (g), does not constitute a reimbursable state mandated program with respect to these employees. However, they cited no authority for this proposition.

The Department of Finance and the State Personnel Board also contended that Government Code section 3303, subdivision (g), does not constitute a reimbursable state mandated program when a permanent employee is transferred based on their assertion that a transfer is covered by the due process clause. As noted earlier, the Commission disagreed with this contention and found that a permanent employee does *not* enjoy the rights prescribed by the due process clause when the employee is transferred.

Accordingly, in the circumstances described above, the Commission found that producing the documents required by Government Code section 3303, subdivision (g), constitutes a new program or higher level of service and imposes "costs mandated by the state" under Government Code section 175 14.

Representation at Interrogation

Government Code section 3303, subdivision (i), provides that the peace officer "shall" have the right to be represented during the interrogation when a formal written statement of charges has been filed or whenever the interrogation focuses on matters that are likely to result in punitive action.

The claimant contended that Government Code section 3303, subdivision (i), results in reimbursable state mandated activities since additional professional and clerical time is needed to schedule the interview when the peace officer asserts the right to representation.

The Commission disagreed with the claimant's contention. Before the enactment of the test claim legislation, peace officers had the same right to representation under Government Code sections 3500 to 3510, also known as the Meyers-Milias-Brown Act (MMBA). The MMBA governs labor management relations in California local governments, including labor relations between peace officers and employers.⁴⁴

Government Code section 3503, which was enacted in 1961, provides that employee organizations have the right to represent their members in their employment relations with public agencies. The California Supreme Court analyzed section 3503 in *Civil Service Association v. City and County of San Francisco*, a case involving the suspension of eight civil service employees. The court recognized an employee's right to representation under the MMBA in disciplinary actions.

"We have long recognized the right of a public employee to have his counsel represent him at disciplinary hearings. (*Steen v. Board of Civil Service Commr.* (1945) 26 Cal.2d 716, 727; [Citations omitted.]) While *Steen* may have dealt with representation by a licensed attorney, the right to representation by a labor organization in the informal process here involved seems to follow from the right to representation contained in the Meyers-Milias-Brown Act and the right to representation recognized in *Steen*."⁴⁵

Peace officers employed by school districts have similar rights under the Educational Employment Relations Act, beginning with Government Code section 3540.⁴⁶

Based on the foregoing, the Commission found that the right to representation at the interrogation under Government Code section 3303, subdivision (i), *does not* constitute a new

⁴⁴ *Santa Clara County Dist. Attorney Investigators Assn. v. County of Santa Clara* (1975) 51 Cal.App.3d 255.

⁴⁵ *Civil Service Assn., supra*, 22 Cal.3d 552, 568.

⁴⁶ Government Code section 3543.2, which was added in 1975 (Stats. 1975, c. 961) provides that school district employees are entitled to representation relating to wages, hours of employment, and other terms and conditions of employment.

program or higher level of service under article XIII B, section 6 of the California Constitution.

Adverse Comments in Personnel File

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.⁴⁷ 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.

Thus, the Commission determined that Government Code sections 3305 and 3306 impose the following requirements on employers:

- To provide notice of the adverse comment;⁴⁸
- To provide an opportunity to review and sign the adverse comment;
- To provide an opportunity to respond to the adverse comment within 30 days; and
- To note on the document that the peace officer refused to sign the adverse comment and to obtain the peace officer's signature or initials under such circumstances.

The claimant contended that county employees have a pre-existing statutory right to inspect and respond to adverse comments contained in the officer's personnel file pursuant to Government Code section 3 1011. The claimant further stated that Labor Code section 1198.5 provides city employees with a pre-existing right to review, but not respond to, adverse comments. Thus, the claimant contended that Government Code sections 3305 and 3306 constitute a new program or higher level of service under article XIII B, section 6 of the California Constitution.

As described below, the Commission found that Government Code sections 3305 and 3306 constitute a *partial* reimbursable state mandated program.

Due Process

Under due process principles, an employee with a property or liberty interest is entitled to notice and an opportunity to respond, either orally or in writing, prior to the disciplinary action proposed by the employer.⁴⁹ If the adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a

⁴⁷ The court in *Aguilar v. Johnson* (1988) 202 Cal. App. 3d 24 1, 249-252, held that an adverse comment under Government Code sections 3305 and 3306 include comments from law enforcement personnel and citizen complaints.

⁴⁸ The Commission found that notice is required since the test claim legislation states 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.*" Thus, the Commission found that the officer must receive notice of the comment before he or she can read or sign the document.

⁴⁹ *Skelly, supra*, 15 Cal.3d 194.

permanent peace officer or harms the officer's reputation and opportunity to find future employment, then the provisions of the test claim legislation which require notice and an opportunity to review and file a written response are already guaranteed under the due process clause.⁵⁰ Under such circumstances, the Commission found that the notice, review and response requirements of Government Code sections 3305 and 3306 *do not* constitute a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution. Moreover, the Commission recognized that pursuant to Government Code section 17556, subdivision (c), the costs incurred in providing notice and an opportunity to respond do not impose "costs mandated by the state".

However, the Commission found that under circumstances where the adverse comment affects the officer's property or liberty interest as described above, the following requirements imposed by the test claim legislation *are not* required by the due process clause:

- Obtaining the signature of the peace officer on the adverse comment, or
- Noting the peace officer's refusal to sign the adverse comment and obtain the peace officer's signature or initials under such circumstances.

The Department of Finance and the State Personnel Board stated the following: "If the adverse comment can be considered a 'written reprimand,' however, the POBOR required 'notice' and the 'opportunity to respond' may already be required by due process. The extent of due process due an employee who suffers an official reprimand is not entirely clear. "

The Commission agreed that if the adverse comment results in, or is considered a written reprimand, then notice and an opportunity to respond is already required by the due process clause and are not reimbursable state mandated activities. However, due process does not require the local agency to obtain the signature of the peace officer on the adverse comment, or note the peace officer's refusal to sign the adverse comment and obtain the peace officer's signature or initials under such circumstances. Accordingly, the Commission found that these two activities required by the test claim legislation when an adverse comment is received constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 17514 even where there is due process protection.

The Legislature has also established protections for local public employees similar to the protections required by Government Code sections 3305 and 3306 in statutes enacted prior to the test claim legislation. These statutes are discussed below.

Existing Statutory Law Relating to Counties

Government Code section 3 101 1, enacted in 1974,⁵¹ established review and response protections for county employees. That section provides the following:

"Every county employee shall have the *right to inspect and review* any official record relating to his or her performance as an employee or to a grievance

⁵⁰ Hopson, *supra*, 139 Cal.App.3d 347.

⁵¹ Stats. 1974, c. 315.

concerning the employee which is kept or maintained by the county; provided, however, that the board of supervisors of any county may exempt letters of reference from the provisions of this section.

The contents of such records shall be made available to the employee for inspection and review at reasonable intervals during the regular business hours of the county.

The county shall provide an opportunity for the employee to *respond* in writing, or personal interview, to any information about which he or she disagrees. Such response shall become a permanent part of the employee's personnel record. The employee shall be responsible for providing the written responses to be included as part of the employee's permanent personnel record.

This section does not apply to the records of an employee relating to the investigation of a possible criminal offense. " (Emphasis added .)

Therefore, the Commission determined that under existing law, counties are required to provide a peace officer with the opportunity to review and respond to an adverse comment *if* the comment *does not* relate to the investigation of a possible criminal offense.⁵² Under such circumstances, the Commission found that the review and response provisions of Government Code sections 3305 and 3306 *do not* constitute a new program or higher level of service.

However, even if the adverse comment *does not* relate to the investigation of a possible criminal offense, the Commission found that the following activities required by the test claim legislation were not required under existing law:

- Providing notice of the adverse comment; and
- 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.

Accordingly, the Commission found that the above activities constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 175 14.

Furthermore, the Commission found that when the adverse comment *does* relate to the investigation of a possible criminal offense, the following activities constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 175 14:

- Providing notice of the adverse comment;
- Providing an opportunity to review and sign the adverse comment; and
- Obtaining the signature of the peace officer on the adverse comment; or

⁵² The Commission found that Government Code section 3 1011 does *not* impose a notice requirement on counties since section 3 10 11 does not require the county employee to review the comment *before* the comment is placed in the personnel file.

- 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.

Existing Statutory Law Relating to Cities and Special Districts

Labor Code section 1198.5, enacted in 1975,⁵³ established review procedures for public employees, including peace officers employed by a city or special district. At the time the test claim legislation was enacted, Labor Code section 1198.5 provided the following:

"(a) Every employer shall at reasonable times, and at reasonable intervals as determined by the Labor Commissioner, upon the request of an employee, permit that employee to inspect such personnel files which are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer subject to this section shall keep a copy of each employee's personnel file at the place the employee reports to work, or shall make such file available at such place within a reasonable period of time after a request therefor by the employee. *A public employer shall, at the request of a public employee, permit the employee to inspect the original personnel files* at the location where they are stored at no loss of compensation to the employee.

(c) *This section does not apply to the records of an employee relating to the investigation of a possible criminal offense.* It shall not apply to letters of reference.

(d) If a local agency has established an independent employee relations board or commission, any matter or dispute pertaining to this section shall be under the jurisdiction of that board or commission, but an employee shall not be prohibited from pursuing any available judicial remedy, whether or not relief has first been sought from a board or commission.

(e) This section shall apply to public employers, including, but not limited to, every city, county, city and county, district, and every public and quasi-public agency. This section shall not apply to the state or any state agency, and shall not apply to public school districts with respect to employees covered by Section 4403 1 of the Education Code. Nothing in this section shall be construed to limit the rights of employees pursuant to Section 31011 of the Government Code or Section 87031 of the Education Code, or to provide access by a public safety employee to confidential preemployment information. "⁵⁴ (Emphasis added.)

Therefore, the Commission determined that under existing law, cities and special districts are required to provide a peace officer the opportunity to review the adverse comment *if* the

⁵³ Stats. 1975, c. 908, § 1.

⁵⁴ Labor Code section 1198.5 was amended in 1993 to delete all provisions relating to local public employers (Stats. 1993, c. 59.) The Legislature expressed its intent when enacting the 1993 amendment "to relieve local entities of the duty to incur unnecessary expenses.. . "

comment *does not* relate to the investigation of a possible criminal offense? Under such circumstances, the Commission found that the review provisions of Government Code sections 3305 and 3306 *do not* constitute a new program or higher level of service.

However, even if the adverse comment *does not* relate to the investigation of a possible criminal offense, the Commission found that the following activities required by the test claim legislation were not required under existing law:

- Providing notice of the adverse comment;
- Providing an opportunity to respond to the adverse comment within 30 days; and
- 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.

Accordingly, the Commission found that the above activities constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 175 14.

Furthermore, the Commission found that when the adverse comment *does* relate to the investigation of a possible criminal offense, the following activities constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 175 14:

- Providing notice of the 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
- 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.

Existing Statutory Law Relating to School Districts

Education Code section 4403 1 establishes notice, review and response protections to peace officers employed by school districts. Section 4403 1 provides in relevant part the following:

"(a) Materials in personnel files of employees that may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

"(d) *Information of a derogatory nature, except [ratings, reports, or records that were obtained in connection with a promotional examination], shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right*

³⁵ The Commission found that Labor Code section 1198.5 does *not* impose a notice requirement on counties since section 1198.5 does not require the city or special district employee to review the comment *before* the comment is placed in the personnel file.

to enter, and have attached to any derogatory statement, his own comments thereon..." (Emphasis added.)

Education Code section 87031 provides the same protections to community college district employees.⁵⁶

Therefore, the Commission determined that existing law, codified in Education Code sections 44031 and 87031, requires school districts and community college districts to provide a peace officer with notice and the opportunity to review and respond to an adverse comment *if* the comment *was* not obtained in connection with a promotional examination. Under such circumstances, the Commission found that the notice, review and response provisions of Government Code sections 3305 and 3306 do *not* constitute a new program or higher level of service.

However, even when Education Code sections 44031 and 87031 apply, if the adverse comment *was not* obtained in connection with a promotional examination, the Commission found that the following activities required by the test claim legislation were not required under existing law:

- 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.

Accordingly, the Commission found that the above activities constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 17514.

Furthermore, the Commission found that when the adverse comment is obtained in connection with a promotional examination, the following activities constitute a new program or higher level of service and impose "costs mandated by the state" under Government Code section 17514:

- Providing notice of the 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
- 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.

CONCLUSION

⁵⁶ Education Code sections 44031 and 87031 were derived from Education Code section 13001.5, which was originally added by Statutes of 1968, Chapter 433.

Based on the foregoing analysis, the Commission concluded that the test claim legislation constitutes a partial reimbursable state mandated program pursuant to article XIII B, section 6 of the California Constitution for the following reimbursable activities:

1. 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 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.
2. 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).)
3. 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).)
4. Tape recording the interrogation when the employee records the interrogation. (Gov. Code, § 3303, subd. (g).)
5. 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.

6. 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.

6. Performing the following activities upon receipt of an adverse comment (Gov. Code, §§ 3305 and 3306):

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.

(b) If an adverse comment is obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:

- Providing notice of the 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 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.

- (c) If an adverse comment *is not* obtained in connection with a promotional examination, then school 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.

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.
- (b) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
- Providing notice of the 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 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.
- (c) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
- Providing notice of the adverse comment; and
 - 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.

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.
- (b) 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 :
- Providing notice of the 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 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.
- (c) 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:
- Providing notice of the adverse comment;
 - Providing an opportunity to respond to the adverse comment within 30 days; and
 - 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.

Tab 4

COMMISSION ON STATE MANDATES

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August 17, 2000

Ms. Pamela A. Stone
Legal Counsel
DMG Maximus
4320 Auburn Blvd., Suite 2000
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Mr. Paige V. Vorhies
Chief, Bureau of Payments
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

And Affected State Agencies and Interested Parties (See Attached Mailing List)

RE: **Corrected Parameters and Guidelines**
Peace Officers Procedural Bill of Rights, CSM-4499
Government Code Sections 3300 through 3311
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
City of Sacramento, Claimant

It was brought to the Commission's attention that pages five and six of the adopted Parameters and Guidelines contain two non-substantive, clerical errors. These errors are have been corrected, as reflected by the strikeout and underline. The corrected Parameters and Guidelines are enclosed.

Commission staff will begin development of a Statewide Cost Estimate. Please contact Piper Rodrian at (916) 323-8218 with questions.

Sincerely,

PAULA HIGASHI
Executive Director

c: Mailing List
Enc.: Corrected Parameters and Guidelines

f:\Mandates\csm4000\4499\pgcorrecttrans

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

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 1989, Chapter 1165; and Statutes of 1990, Chapter 675

And filed December 21, 1995;

By the City of Sacramento, Claimant.

NO. CSM - 4499

**ADOPTION OF
PARAMETERS AND
GUIDELINES PURSUANT
TO GOVERNMENT CODE
SECTION 17557 AND
TITLE 2, CALIFORNIA
CODE OF REGULATIONS,
SECTION 1183.12**

(Adopted on July 27, 2000
Corrected on August 17, 2000)

ADOPTED PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Parameters and Guidelines on July 27, 2000.


PAULA HIGASHI, Executive Director

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

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 (POBAR).

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.

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

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.

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."

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 \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

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.
3. Updating the status of the POBAR cases.

B. 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 (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 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.

C. Interrogations

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).)

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.

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 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.

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 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 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 cost of tape copying.

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; cost of processing, service and retention of copies.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment (Gov. Code, §§ 3305 and 3306):

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.
- (b) If an adverse comment *is* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:
- Providing notice of the 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 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.
- (c) If an adverse comment *is not* obtained in connection with a promotional examination, then school 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.

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 ~~schools~~ 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.
- (b) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
- Providing notice of the 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 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.
- (c) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties obtained are entitled to reimbursement for:
- Providing notice of the adverse comment; and
 - 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.

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 ~~schools~~ 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.
- (b) 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:
- Providing notice of the 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 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.
- (c) 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:
- Providing notice of the adverse comment;
 - Providing an opportunity to respond to the adverse comment within 30 days; and
 - 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.

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.

V. CLAIM PREPARATION AND SUBMISSION

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 5

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006

PARAMETERS AND GUIDELINES

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

As Added and Amended by Statutes of 1976, Chapter 465;
Statutes of 1978, Chapters 775, 1173, 1174, and 1178;

Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982,
Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and
Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

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

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

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

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

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

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."

- 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.

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

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

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

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.

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:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.
2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.
3. Updating the status report of mandate-reimbursable POBOR activities.
"Updating the status report of mandate-reimbursable POBOR-activities" means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

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

Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers.³

The following activities and costs are reimbursable:

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

The following activities are not reimbursable:

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

The following activities and costs are reimbursable:

- a. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- b. Legal review and assistance with the conduct of the administrative appeal hearing.
- c. Preparation and service of subpoenas.
- d. Preparation and service of any rulings or orders of the administrative body.

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

- e. The cost of witness fees.
- f. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are not reimbursable:

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

C. Interrogations

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

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

The following activities are reimbursable:

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

Preparation and review of overtime compensation requests are reimbursable.

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

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

- a. Review of agency complaints or other documents to prepare the notice of interrogation.

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.)

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

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

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

The cost of media copying is reimbursable.

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

- Other actions against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career of the employee.

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

The following activities are **not** reimbursable:

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

D. Adverse Comment

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

School Districts

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

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.)

2. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

Counties

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

Cities and Special Districts

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

The following adverse comment activities are reimbursable:

1. Review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel to determine whether the comment constitutes a written reprimand or an adverse comment.

2. Preparation of notice of adverse comment.
3. Review of notice of adverse comment for accuracy.
4. Informing the peace officer about the officer's rights regarding the notice of adverse comment.
5. Review of peace officer's response to adverse comment.
6. Attaching the peace officers' response to the adverse comment and filing the document in the appropriate file.

The following activities are not reimbursable:

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

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

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

6. Training

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

B. Indirect Cost Rates

1. Local Agencies

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

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

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

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

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

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

2. School Districts

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

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

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

3. County Offices of Education

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

4. Community College Districts

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

VI. RECORD RETENTION

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

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

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.

Tab 6

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PROPOSED AMENDMENT TO
THE PARAMETERS AND GUIDELINES
FOR THE TEST CLAIM ON:

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

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

Filed on June 25, 2007 by the County of Los
Angeles, Claimant.

No. 06-PGA-06 [05-RL-4499-01 (4499)]

Peace Officers Procedural Bill of Rights

ADOPTION OF PARAMETERS AND
GUIDELINES AMENDMENT PURSUANT TO
GOVERNMENT CODE SECTION 17557 AND
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, SECTION 1183.2

(Adopted on March 28, 2008)

PARAMETERS AND GUIDELINES

On March 28, 2008, the Commission on State Mandates adopted the attached Parameters
and Guidelines Amendment.

PAULA HIGASHI, Executive Director

Dated: April 4, 2008

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

AMENDED PARAMETERS AND GUIDELINES

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

As Added and Amended by Statutes of 1976, Chapter 465;

Statutes of 1978, Chapters 775, 1173, 1174, and 1178;

Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and

Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

06-PGA-06

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

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

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

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

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."

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

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

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

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

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

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

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

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

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

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

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

1. A local agency or school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

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

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

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.

IV. REIMBURSABLE ACTIVITIES

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

For each eligible claimant, the following activities are reimbursable:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.
2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.
3. Updating the status report of mandate-reimbursable POBOR activities.
"Updating the status report of mandate-reimbursable POBOR-activities" means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

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

The following activities and costs are reimbursable:

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

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.

The following activities are not reimbursable:

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

The following activities and costs are reimbursable:

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

The following activities are not reimbursable:

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

C. Interrogations

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

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

The following activities are reimbursable:

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

Preparation and review of overtime compensation requests are reimbursable.

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

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

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

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.)

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

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):

- a. The further proceeding is not a disciplinary action;
- b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);
- c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):

- a) When the investigation does not result in disciplinary action; and

- b) When the investigation results in:

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

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

The following activities are not reimbursable:

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

D. Adverse Comment

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

School Districts

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

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.)

Counties

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

Cities and Special Districts

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

The following adverse comment activities are reimbursable:

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

The following activities are not reimbursable:

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

V. CLAIM PREPARATION AND SUBMISSION

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

A. Reasonable Reimbursement Methodology

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

1. Definition

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

- (a) *Reasonable reimbursement methodology* means a formula for reimbursing local agency and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a *reasonable reimbursement methodology* shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year,

the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

- (e) A reasonable reimbursement methodology may be developed by any of the following:
- (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

2. Formula

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

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

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

B. ACTUAL COST CLAIMS

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

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

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

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

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

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

1. Direct Cost Reporting

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

a. Salaries and Benefits

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

b. 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.

c. 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.

d. 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.

e. 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 B. 1. a. Salaries and Benefits, for each applicable reimbursable activity.

f. 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 B.1.a, Salaries and Benefits, and B.1.b, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element B.1.c, Contracted Services.

2. Indirect Cost Rates

a. 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:

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

expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

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

b. 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.

c. 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.

d. Community College Districts

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

VI. RECORD RETENTION

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

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

commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the application of a reasonable reimbursement methodology must also be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

Tab 7

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Summary of Claimed Costs and Adjustments by Reimbursable Activity
Salaries and Benefits

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
Admin Activities											
FY 2003-04	F.1.1	\$ 370,032	\$ 6,951	\$ (363,081)	G.1.1	\$ 115,709	\$ 2,174	\$ (113,535)	\$ 485,741	\$ 9,125	\$ (476,616)
FY 2004-05		364,731	17,316	(347,415)		132,269	6,197	(126,072)	497,000	23,513	(473,487)
FY 2005-06		412,695	18,868	(393,827)		158,647	7,260	(151,387)	571,342	26,128	(545,214)
FY 2006-07		371,865	16,703	(355,162)		161,820	7,231	(154,589)	533,685	23,934	(509,751)
FY 2007-08		529,559	24,830	(504,729)		247,501	10,881	(236,620)	777,060	35,711	(741,349)
Subtotal		\$ 2,048,882	\$ 84,668	\$ (1,964,214)		\$ 815,946	\$ 33,743	\$ (782,203)	\$ 2,864,828	\$ 118,411	\$ (2,746,417)
Interrogations											
FY 2003-04	F.1.1	\$ 1,789,950	\$ 178,691	\$ (1,611,259)	G.1.1	\$ 559,718	\$ 55,877	\$ (503,841)	\$ 2,349,668	\$ 234,568	\$ (2,115,100)
FY 2004-05		1,493,993	147,963	(1,346,030)		543,963	53,873	(490,090)	2,037,956	201,836	(1,836,120)
FY 2005-06		1,706,155	168,391	(1,537,764)		655,676	64,713	(590,963)	2,361,831	233,104	(2,128,727)
FY 2006-07		1,546,102	149,266	(1,396,836)		673,791	65,050	(608,741)	2,219,893	214,316	(2,005,577)
FY 2007-08		2,395,617	225,176	(2,170,441)		1,140,553	107,206	(1,033,347)	3,536,170	332,382	(3,203,788)
Subtotal		\$ 8,931,817	\$ 869,487	\$ (8,062,330)		\$ 3,573,701	\$ 346,719	\$ (3,226,982)	\$ 12,505,518	\$ 1,216,206	\$ (11,289,312)
Adverse Comments											
FY 2003-04	F.1.1	\$ 2,698,900	\$ 1,835,467	\$ (863,433)	G.1.1	\$ 843,946	\$ 573,951	\$ (269,995)	\$ 3,542,846	\$ 2,409,418	\$ (1,133,428)
FY 2004-05		2,542,710	1,585,786	(956,924)		923,017	576,820	(346,197)	3,465,727	2,162,606	(1,303,121)
FY 2005-06		2,866,552	1,799,617	(1,066,935)		1,101,861	691,639	(410,222)	3,968,413	2,491,256	(1,477,157)
FY 2006-07		2,598,414	1,634,606	(963,808)		1,131,135	712,106	(419,029)	3,729,549	2,346,712	(1,382,837)
FY 2007-08		3,774,784	2,330,206	(1,444,578)		1,796,797	1,109,178	(687,619)	5,571,581	3,439,384	(2,132,197)
Subtotal		\$ 14,481,360	\$ 9,185,682	\$ (5,295,678)		\$ 5,796,756	\$ 3,663,694	\$ (2,133,062)	\$ 20,278,116	\$ 12,849,376	\$ (7,428,740)
Total		\$ 25,462,059	\$ 10,139,837	\$ (15,322,222)		\$ 10,186,403	\$ 4,044,156	\$ (6,142,247)	\$ 35,648,462	\$ 14,183,993	\$ (21,464,469)

City of Los Angeles
 Legislatively Mandated Peace Officers' Procedural Bill of Rights Program
 Schedule of Audited Claimed Costs, Summary of Adjustments
 Fiscal Years 2003-04 through 2007-08
 Audit ID # S09-MCC-047

		F.1.1			G.1.1			L.1.1			H.1.1						
	Salaries Claimed	Salaries Allowed per audit	Salaries Adjustments (unallowable activities)	Salaries Adjustments (misstated PHR)	Benefits Claimed	Benefits Allowed per audit	Benefits Adjustments (unallowable activities)	Benefits Adjustments (misstated PHR)	Claimed Related I/C	Allowed Related I/C as per audit	Related I/C Adjustments (related to activities)	Related I/C Adjustments (related to misstated PHR)	Claimed Serv / Suppl	Allowed Serv / Suppl as per audit	Serv / Suppl Adjustments (related to activities)	Serv / Suppl Adjustments (related to misstated PHR)	
2003-04	Admin Activities	370,032	6,951	(363,081)	-	115,709	2,174	(113,535)	-	227,644	4,277	(223,367)	-	117,457	23,798	(93,659)	-
	Interrogations	1,789,950	178,691	(1,611,259)	-	559,718	55,877	(503,841)	-	1,101,177	109,930	(991,247)	-	-	-	-	-
	Adverse Comment	2,698,900	1,835,467	(863,433)	-	843,946	573,951	(269,995)	-	1,660,363	1,129,179	(531,184)	-	591,226	124,799	(477,609)	11,182
	Subtotal	4,858,882	2,021,109	(2,837,773)	-	1,519,373	632,002	(887,371)	-	2,989,184	1,243,386	(1,745,798)	-	708,683	148,597	(571,268)	11,182
2004-05	Admin Activities	364,731	17,316	(347,415)	-	132,269	6,197	(126,072)	-	219,301	7,683	(211,618)	-	-	-	-	-
	Interrogations	1,493,993	147,963	(1,346,030)	-	543,963	53,873	(490,090)	-	970,348	96,101	(874,247)	-	-	-	-	-
	Adverse Comment	2,542,710	1,585,786	(956,924)	-	923,017	576,820	(346,197)	-	1,559,018	1,011,207	(547,811)	-	-	-	-	-
	Subtotal	4,401,434	1,751,065	(2,650,369)	-	1,599,249	636,890	(962,359)	-	2,748,667	1,114,991	(1,633,676)	-	-	-	-	-
2005-06	Admin Activities	412,695	18,868	(393,827)	-	158,647	7,260	(151,387)	-	199,637	6,997	(192,640)	-	-	-	-	-
	Interrogations	1,706,155	168,391	(1,537,764)	-	655,676	64,713	(590,963)	-	881,570	87,007	(794,563)	-	-	-	-	-
	Adverse Comment	2,866,552	1,805,778	(1,066,935)	6,161	1,101,861	694,012	(410,222)	2,373	1,412,692	918,652	(495,848)	1,808	-	-	-	-
	Subtotal	4,985,402	1,993,037	(2,998,526)	6,161	1,916,184	765,985	(1,152,572)	2,373	2,493,899	1,012,656	(1,483,051)	1,808	-	-	-	-
2006-07	Admin Activities	371,865	16,703	(355,162)	-	161,820	7,231	(154,589)	-	158,535	5,806	(152,729)	-	-	-	-	-
	Interrogations	1,546,102	149,266	(1,396,836)	-	673,791	65,050	(608,741)	-	693,736	66,975	(626,761)	-	-	-	-	-
	Adverse Comment	2,598,414	1,634,606	(963,808)	-	1,131,135	712,106	(419,029)	-	1,122,255	724,566	(397,689)	-	-	-	-	-
	Subtotal	4,516,381	1,800,575	(2,715,806)	-	1,966,746	784,387	(1,182,359)	-	1,974,526	797,347	(1,177,179)	-	-	-	-	-
2007-08	Admin Activities	529,559	25,936	(504,729)	1,106	247,501	11,331	(236,620)	450	285,233	11,055	(274,524)	346	-	-	-	-
	Interrogations	2,395,617	227,289	(2,170,441)	2,113	1,140,553	108,212	(1,033,347)	1,006	1,367,418	129,737	(1,238,887)	1,206	-	-	-	-
	Adverse Comment	3,774,784	2,411,312	(1,444,578)	81,106	1,796,797	1,147,785	(687,619)	38,607	2,065,701	1,356,510	(753,975)	44,784	-	-	-	-
	Subtotal	6,699,960	2,664,537	(4,119,748)	84,325	3,184,851	1,267,328	(1,957,586)	40,063	3,718,352	1,497,302	(2,267,386)	46,336	-	-	-	-
Grand Total		\$ 25,462,059	\$ 10,230,323	\$ (15,322,222)	\$ 90,486	\$ 10,186,403	\$ 4,086,592	\$ (6,142,247)	\$ 42,436	\$ 13,924,628	\$ 5,665,682	\$ (8,367,090)	\$ 48,144	\$ 708,683	\$ 148,597	\$ (571,268)	\$ 11,182

* In this FY, the city claimed civilian employees' salary, benefit, and related indirect costs (all combined) under the services and supplies component.

Audit ID # S09-MCC-047

Summary of Salary Costs and Adjustments

F.1.PS

Purpose: To summarize claimed salary costs and audit adjustments that resulted from auditor's review.

F.1.PS

G.1.PS

Cost Components	Salaries Claimed	Allowed Salaries	Adjustment I Hour-related	Adjustment II PHR-related
2003-04	F.1.1		Finding 1 (Hours)	Finding 2 (PHR)
Administrative Activities	370,032	6,951	(363,081)	
Interrogations	1,789,950	178,691	(1,611,259)	
Adverse Comment	2,698,900	1,835,467	(863,433)	
Subtotal	\$ 4,858,882	\$ 2,021,109	\$ (2,837,773)	\$ -
				E.1.1
2004-05	F.1.1			
Administrative Activities	364,731	17,316	(347,415)	
Interrogations	1,493,993	147,963	(1,346,030)	
Adverse Comment	2,542,710	1,585,786	(956,924)	
Subtotal	\$ 4,401,434	\$ 1,751,065	\$ (2,650,369)	\$ -
				E.1.1
2005-06	F.1.1			
Administrative Activities	412,695	18,868	(393,827)	
Interrogations	1,706,155	168,391	(1,537,764)	
Adverse Comment	2,866,552	1,805,778	(1,066,935)	6,161
Subtotal	\$ 4,985,402	\$ 1,993,037	\$ (2,998,526)	\$ 6,161
				E.1.1
2006-07	F.1.1			
Administrative Activities	371,865	16,703	(355,162)	
Interrogations	1,546,102	149,266	(1,396,836)	
Adverse Comment	2,598,414	1,634,606	(963,808)	
Subtotal	\$ 4,516,381	\$ 1,800,575	\$ (2,715,806)	\$ -
				E.1.1
2007-08	F.1.1			
Administrative Activities	529,559	25,936	(504,729)	1,106
Interrogations	2,395,617	227,289	(2,170,441)	2,113
Adverse Comment	3,774,784	2,411,312	(1,444,578)	81,106
Subtotal	\$ 6,699,960	\$ 2,664,537	\$ (4,119,748)	\$ 84,325
				E.1.1
Total	\$ 25,462,059	\$ 10,230,323	\$ (15,322,222)	\$ 90,486
	EX1		EX1	EX3

^ In this FY, the city claimed civilian employees' salaries, benefits, and related indirect costs under the component of the services and supplies...

The auditor will analyze these costs under the services and supplies portion of this audit.

- The city accidentally used the Productive Hourly rate for PSR I instead of II in this FY. The auditors have used the correct rate.

The adjustment for understated PHR is 6,161 (7.25 difference in rate * allowed hours 849.78).

This finding will be included with the misstated PHR finding (combined with FY 2007-08 and 2003-04)

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2003-04
Audit ID # S09-MCC-047
 Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2003-04

Administrative Activities

Captain II	\$	79.37	647.28	\$ 51,374.61
Captain III		85.07	916.98	78,007.49
Lieutenant		64.43	107.88	6,950.71
Lieutenant II		68.16	161.82	11,029.65
Sergeant I		54.67	269.70	14,744.50
Sergeant II		58.10	647.28	37,606.97
Detective II		54.98	1,186.68	65,243.67
Detective III		60.87	1,726.08	105,066.49
Sr. Clerk Typist	^	29.26	701.22	-
Clerk Typist	^	23.73	647.28	-
Principal Clerk Police I	^	35.84	970.92	-
Unreconciled difference				8.00
Subtotal			7,983.12	\$ 370,032

Interrogations

Detective I	\$	51.23	3,662.53	\$ 187,631.4
Detective II		54.98	4,045.50	222,421.59
Detective III		60.87	3,409.01	207,506.44
Sergeant I		54.67	3,894.47	212,910.67
Sergeant II		58.10	4,514.78	262,308.72
Lieutenant I		64.43	5,458.73	351,705.97
Peace Off II - wit		42.23	2,211.54	93,393.33
Peace Off II - sub		42.23	5,968.88	252,065.80
Unreconciled difference				6.00
Subtotal			33,165.44	\$ 1,789,950

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

	F.3.8		
\$ 79.37	-	\$ -	\$ (51,374.61)
85.07	-	-	(78,007.49)
64.43	107.88	6,950.71	-
68.16	-	-	(11,029.65)
54.67	-	-	(14,744.50)
58.10	-	-	(37,606.97)
54.98	-	-	(65,243.67)
60.87	-	-	(105,066.49)
29.26	269.70	N/A	
23.73	107.88	N/A	
35.84	107.88	N/A	
		-	(8.00)
593.34		\$ 6,951	\$ (363,081)

	F.3.8		
\$ 51.23	-	\$ -	\$ (187,631.4)
54.98	431.52	23,724.97	(198,696.62)
60.87	1,186.68	72,233.21	(135,273.23)
54.67	431.52	23,591.20	(189,319.48)
58.10	539.40	31,339.14	(230,969.58)
64.43	431.52	27,802.83	(323,903.14)
42.23	-	-	(93,393.33)
42.23	-	-	(252,065.80)
		-	(6.00)
3,020.64		\$ 178,691	\$ (1,611,259)

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2003-04
Audit ID # S09-MCC-047
 Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2003-04

Adverse Comment

Lieutenant I	\$	64.43	3,613.98	\$ 232,848.7
Lieutenant II		68.16	5,016.42	341,919.19
Captain I		73.33	2,427.30	177,993.91
Captain II		79.37	3,506.10	278,279.16
Captain III		85.07	3,074.58	261,554.52
Sergeant I		54.67	10,949.82	598,626.66
Sergeant II		58.10	3,613.98	209,972.24
Detective I		51.23	269.70	13,816.73
Detective II		54.98	5,016.42	275,802.77
Detective III		60.87	3,937.62	239,682.93
Police Off II		42.23	1,618.20	68,336.59
Clerk Typist	^	23.73	269.70	-
Sr. Clerk Typist	^	29.26	2,049.72	-
Police Serv Rep. II	^	28.05	1,995.78	-
Mgmt Analyst II	^	43.35	4,045.50	-
Principal Clerk Police I	^	35.84	1,618.20	-
Unreconciled difference				67.00

Subtotal

53,023.02 \$ 2,698,900

Total

94,171.58 \$ 4,858,882

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

F.3.8

64.43	2,858.82	\$ 184,193.8	\$ (48,655.0)
68.16	4,962.48	338,242.6	(3,676.6)
73.33	2,319.42	170,083.1	(7,910.8)
79.37	3,613.98	286,842.0	8,562.8
85.07	2,804.88	238,611.1	(22,943.4)
54.67	916.98	50,131.3	(548,495.4)
58.10	3,236.40	188,034.8	(21,937.4)
51.23	269.70	13,816.7	-
54.98	2,265.48	124,556.1	(151,246.7)
60.87	3,883.68	236,400.0	(3,282.9)
42.23	107.88	4,555.8	(63,780.8)
23.73	269.70	N/A	-
29.26	1,186.68	N/A	-
34.98	970.92	N/A	-
43.35	-	N/A	-
35.84	-	N/A	-
		-	(67.0)
29,667.00	\$ 1,835,467	\$ (863,433)	

\$ 2,021,109

\$ (2,837,773)

G.1.PS

G1.1


I.1.1

F.1.1

^ In this FY, the city claimed civilian employees' salaries, benefits, and related indirect costs under the component of the services and supplies...
 The auditor will analyze these costs under the services and supplies portion of this audit.

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Year 2004-05
Audit ID # S09-MCC-047
Summary of Salary Costs and Adjustments

W/P F.1.1

 F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2004-05

Administrative Activities

Captain II	\$	83.34	517.92	\$ 43,163.45
Captain III		89.41	733.72	65,601.91
Lieutenant		66.91	86.32	5,775.67
Lieutenant II		70.40	129.48	9,115.39
Sergeant I		57.01	215.80	12,302.76
Sergeant II		60.12	517.92	31,137.35
Detective II		56.87	949.52	53,999.20
Detective III		62.76	1,381.12	86,679.09
Sr. Clerk Typist *		29.47	561.08	16,535.03
Clerk Typist *		23.93	517.92	12,393.83
Principal Clerk Police II *		36.08	776.88	28,029.83
Unreconciled difference				(3.00)
Subtotal			6,387.68	\$ 364,731

Interrogations

Detective I	\$	53.37	2,930.56	\$ 156,404.0
Detective II		56.87	3,237.00	184,088.19
Detective III		62.76	2,727.71	171,191.08
Sergeant I		57.01	3,116.15	177,651.71
Sergeant II		60.12	3,612.49	217,182.90
Lieutenant II		70.40	4,367.79	307,492.42
Lieutenant I		-	-	-
Peace Off II - wit		43.46	1,769.56	76,905.08
Peace Off II - sub		43.46	4,673.63	203,115.96
Unreconciled difference				(38.00)
Subtotal			26,434.89	\$ 1,493,993

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour- related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

 F.4.1

<div><div>F.3.8</div></div>				
\$	83.34	-	\$ -	\$ (43,163.45)
	89.41	-	-	(65,601.91)
	66.91	86.32	5,776.00	0.33
	70.40	-	-	(9,115.39)
	57.01	-	-	(12,302.76)
	60.12	-	-	(31,137.35)
	56.87	-	-	(53,999.20)
	62.76	-	-	(86,679.09)
	29.47	215.80	6,359.63	(10,175.40)
	23.93	86.32	2,065.64	(10,328.19)
	36.08	86.32	3,114.43	(24,915.40)
			-	3.00
	474.76	\$ 17,316	\$ (347,415)	

<div><div></div><div>F.3.8</div></div>				
\$	53.37	-	\$ -	\$ (156,404.0)
	56.87	345.28	19,636.07	(164,452.12)
	62.76	949.52	59,591.88	(111,599.20)
	57.01	345.28	19,684.41	(157,967.30)
	60.12	431.60	25,947.79	(191,235.11)
	70.40	-	-	(307,492.42)
	66.91	345.28	23,102.68	23,102.68
	43.46	-	-	(76,905.08)
	43.46	-	-	(203,115.96)
			-	38.00

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2004-05
Audit ID # S09-MCC-047
 Summary of Salary Costs and Adjustments

W/P F.1.1

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2004-05

Adverse Comment

Lieutenant I	\$	66.91	2,891.72	\$ 193,485.0
Lieutenant II		70.40	4,013.88	282,577.15
Captain I		75.38	1,942.20	146,403.04
Captain II		83.34	2,805.40	233,802.04
Captain III		89.41	2,460.12	219,959.33
Sergeant I		57.01	8,761.48	499,491.97
Sergeant II		60.12	2,891.72	173,850.21
Detective I		53.37	215.80	11,517.25
Detective II		56.87	4,013.88	228,269.36
Detective III		62.76	3,150.68	197,736.68
Police Off II		43.46	1,294.80	56,272.01
Clerk Typist	*	23.93	215.80	5,164.09
Sr. Clerk Typist	*	29.47	1,640.08	48,333.16
Police Serv Rep. II	*	35.51	1,596.92	56,706.63
Mgmt Analyst II	*	44.00	3,237.00	142,428.00
Principal Clerk Police II *		36.08	1,294.80	46,716.38
Unreconciled difference				(2.00)

Subtotal

42,426.28 \$ 2,542,710

Total

75,248.85 \$ 4,401,434

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour- related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

F.3.8

\$ 66.91	2,287.48	\$ 153,055.3	\$ (40,429.7)
70.40	3,970.72	279,538.69	(3,038.46)
75.38	1,855.88	139,896.23	(6,506.80)
83.34	2,891.72	240,995.94	7,193.91
89.41	2,244.32	200,664.65	(19,294.68)
57.01	733.72	41,829.38	(457,662.60)
60.12	2,589.60	155,686.75	(18,163.45)
53.37	215.80	11,517.25	-
56.87	1,812.72	103,089.39	(125,179.97)
62.76	3,107.52	195,027.96	(2,708.72)
43.46	86.32	3,751.47	(52,520.54)
23.93	215.80	5,164.09	-
29.47	949.52	27,982.35	(20,350.80)
35.51	776.88	27,587.01	(29,119.62)
44.00	-	-	(142,428.00)
36.08	-	-	(46,716.38)
		-	2.00

23,738.00 \$ 1,585,786 \$ (956,924)

26,629.72 \$ 1,751,065 \$ (2,650,369)

G.1.PS

G.1.1

I.1.1

F.1.1

* Civilian Employees. The city calculated a separate indirect cost rate for these classifications.

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2005-06
 Audit ID # S09-MCC-047
 Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2005-06

Administrative Activities

Captain II	\$	87.88	566.52	\$ 49,785.78
Captain III		93.85	802.57	75,321.19
Lieutenant		69.33	94.42	6,546.14
Lieutenant II		73.48	141.63	10,406.97
Sergeant I		59.36	236.05	14,011.93
Sergeant II		62.67	566.52	35,503.81
Detective II		59.28	1,038.62	61,569.39
Detective III		65.29	1,510.72	98,634.91
Sr. Clerk Typist *		28.73	613.73	17,632.46
Clerk Typist *		23.21	566.52	13,148.93
Principal Clerk Police II *		35.46	849.78	30,133.20

Subtotal 6,987.08 \$ 412,695

Interrogations

Detective I	\$	55.42	3,205.56	\$ 177,652.1
Detective II		59.28	3,540.75	209,895.66
Detective III		65.29	2,983.67	194,803.81
Sergeant I		59.36	3,408.56	202,332.12
Sergeant II		62.67	3,951.48	247,639.25
Lieutenant I		-	-	-
Lieutenant II		73.48	4,777.65	351,061.72
Peace Off II - wit		45.69	1,935.61	88,438.02
Peace Off II - sub		45.69	5,128.75	234,332.59

Subtotal 28,932.03 \$ 1,706,155

Auditors' Analysis

Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

F.3.8

\$ 87.88	-	\$ -	\$ (49,785.78)
93.85	-	-	(75,321.19)
69.33	94.42	6,546.14	-
73.48	-	-	(10,406.97)
59.36	-	-	(14,011.93)
62.67	-	-	(35,503.81)
59.28	-	-	(61,569.39)
65.29	-	-	(98,634.91)
28.73	236.05	6,782.00	(10,850.46)
23.21	94.42	2,191.49	(10,957.44)
35.46	94.42	3,348.13	(26,785.07)

519.31 \$ 18,868 \$ (393,827)

F.3.8

\$ 55.42	-	\$ -	\$ (177,652)
59.28	377.68	22,388.87	(187,506.79)
65.29	1,038.62	67,811.50	(126,992)
59.36	377.68	22,419.08	(179,913.04)
62.67	472.10	29,586.51	(218,052.74)
69.33	377.68	26,184.55	26,184.55
73.48	-	-	(351,061.72)
45.69	-	-	(88,438.02)
45.69	-	-	(234,332.59)

2,643.76 \$ 168,391 \$ (1,537,764)

W/P F.1.1

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Year 2005-06
Audit ID # S09-MCC-047
Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2005-06

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

Adverse Comment

Lieutenant I	\$	69.33	3,163.07	\$ 219,295.6
Lieutenant II		73.48	4,390.53	322,616.14
Captain I		77.98	2,124.45	165,664.61
Captain II		87.88	3,068.65	269,672.96
Captain III		93.85	2,690.97	252,547.53
Sergeant I		59.36	9,583.63	568,884.28
Sergeant II		62.67	3,163.07	198,229.60
Detective I		55.42	236.05	13,081.89
Detective II		59.28	4,390.53	260,270.62
Detective III		65.29	3,446.33	225,010.89
Police Off II		45.69	1,416.30	64,710.75
Clerk Typist *		23.21	236.05	5,478.72
Sr. Clerk Typist *		28.73	1,793.98	51,541.05
Police Serv Rep. II *		27.05	1,746.77	47,250.13
Mgmt Analyst II *		42.95	3,540.75	152,075.21
Principal Clerk Police II *		35.46	1,416.30	50,222.00

Subtotal

46,407.43 \$ 2,866,552

Total

82,326.54 \$ 4,985,402

F.3.8

\$ 69.33	2,502.13	\$ 173,472.67	\$ (45,823.0)
73.48	4,343.32	319,147.15	(3,468.99)
77.98	2,030.03	158,301.74	(7,362.87)
87.88	3,163.07	277,970.59	8,297.63
93.85	2,454.92	230,394.24	(22,153.29)
59.36	802.57	47,640.56	(521,243.72)
62.67	2,832.60	177,519.04	(20,710.55)
55.42	236.05	13,081.89	-
59.28	1,982.82	117,541.57	(142,729.05)
65.29	3,399.12	221,928.54	(3,082.34)
45.69	94.42	4,314.05	(60,396.70)
23.21	236.05	5,478.72	-
28.73	1,038.62	29,839.55	(21,701.49)
34.30	849.78	29,147.45	(18,102.67)
42.95	-	-	(152,075.21)
35.46	-	-	(50,222.00)

25,965.50

\$ 1,805,778

\$ (1,060,774)

29,128.57

\$ 1,993,037

\$ (2,992,365)

G.1.PS

G.1.1

I.1.1

F.1.1

* Civilian Employees. The city calculated a separate indirect cost rate for these classifications.

- The city accidentally used the Productive Hourly rate for PSR I instead of II in this FY. The auditors have used the correct rate. The adjustment for understated PHR is **6,161** (7.25 difference in rate * allowed hours 849.78). This finding will be included with the misstated PHR finding (combined with FY 2007-08 and 2003-04)

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Year 2006-07
Audit ID # S09-MCC-047
Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2006-07

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour- related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

Administrative Activities

Captain II	\$	89.51	504.00	\$ 45,113.04
Captain III		95.59	714.00	68,251.26
Lieutenant		70.61	84.00	5,931.24
Lieutenant II		74.85	126.00	9,431.10
Sergeant I		60.47	210.00	12,698.70
Sergeant II		63.84	504.00	32,175.36
Detective II		60.38	924.00	55,791.12
Detective III		66.50	1,344.00	89,376.00
Sr. Clerk Typist	*	28.33	546.00	15,468.18
Clerk Typist	*	22.91	504.00	11,546.64
Principal Clerk Police II	*	34.50	756.00	26,082.00

Subtotal

6,216.00

\$ 371,865

Interrogations

Detective I	\$	56.45	2,851.80	\$ 160,984.1
Detective II		60.38	3,150.00	190,197.00
Detective III		66.50	2,654.40	176,517.60
Sergeant I		60.47	3,032.40	183,369.23
Sergeant II		63.84	3,515.40	224,423.14
<i>Lieutenant I</i>		-	-	-
Lieutenant II		74.85	4,250.40	318,142.44
Peace Off II - wit		46.54	1,722.00	80,141.68
Peace Off II - sub		46.54	4,562.25	212,327.12

Subtotal

25,738.65

\$ 1,546,102

F.3.8

\$	89.51	-	\$	-	\$ (45,113.04)
	95.59	-		-	(68,251.26)
	70.61	84.00		5,931.24	-
	74.85	-		-	(9,431.10)
	60.47	-		-	(12,698.70)
	63.84	-		-	(32,175.36)
	60.38	-		-	(55,791.12)
	66.50	-		-	(89,376.00)
	28.33	210.00		5,949.30	(9,518.88)
	22.91	84.00		1,924.44	(9,622.20)
	34.50	84.00		2,898.00	(23,184.00)

462.00

F.3.8

\$	56.45	-	\$	-	\$ (160,984.1)
	60.38	336.00		20,287.68	(169,909.32)
	66.50	924.00		61,446.00	(115,071.60)
	60.47	336.00		20,317.92	(163,051.31)
	63.84	420.00		26,812.80	(197,610.34)
	60.72	336.00		20,401.92	20,401.92
	74.85	-		-	(318,142.44)
	46.54	-		-	(80,141.68)
	46.54	-		-	(212,327.12)

2,352.00

\$ 149,266

\$ (1,396,836)

WIP F.1.1

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Year 2006-07
Audit ID # S09-MCC-047

Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2006-07

Auditors' Analysis			
Allowed PHR	Allowed Hours	Allowed Salary	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.4.1

Adverse Comment

Lieutenant I	\$	70.61	2,814.00	\$ 198,696.5
Lieutenant II		74.85	3,906.00	292,364.10
Captain I		79.43	1,890.00	150,122.70
Captain II		89.51	2,730.00	244,362.30
Captain III		95.59	2,394.00	228,842.46
Sergeant I		60.47	8,526.00	515,567.22
Sergeant II		63.84	2,814.00	179,645.76
Detective I		56.45	210.00	11,854.50
Detective II		60.38	3,906.00	235,844.28
Detective III		66.50	3,066.00	203,889.00
Police Off II		46.54	1,260.00	58,640.40
Clerk Typist	*	22.91	210.00	4,811.10
Sr. Clerk Typist	*	28.33	1,596.00	45,214.68
Police Serv Rep. II	*	33.99	1,554.00	52,820.46
Mgmt Analyst II	*	41.99	3,150.00	132,268.50
Principal Clerk Police II *		34.50	1,260.00	43,470.00
Subtotal			41,286.00	\$ 2,598,414

Total

73,240.65 **\$ 4,516,381**

F.3.8

\$	70.61	2,226.00	\$ 157,177.86	\$ (41,518.7)
	74.85	3,864.00	289,220.40	(3,143.70)
	79.43	1,806.00	143,450.58	(6,672.12)
	89.51	2,814.00	251,881.14	7,518.84
	95.59	2,184.00	208,768.56	(20,073.90)
	60.47	714.00	43,175.58	(472,391.64)
	63.84	2,520.00	160,876.80	(18,768.96)
	56.45	210.00	11,854.50	-
	60.38	1,764.00	106,510.32	(129,333.96)
	66.50	3,024.00	201,096.00	(2,793.00)
	46.54	84.00	3,909.36	(54,731.04)
	22.91	210.00	4,811.10	-
	28.33	924.00	26,176.92	(19,037.76)
	33.99	756.00	25,696.44	(27,124.02)
	41.99	-	-	(132,268.50)
	34.50	-	-	(43,470.00)
		23,100.00	\$ 1,634,606	\$ (963,808)

25,914.00 **\$ 1,800,575**

G.1.PS

G.1.1

L.1.1

F.1.1

* Civilian Employees. The city calculated a separate indirect cost rate for these classifications.

W/P F.1.1

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Year 2007-08
Audit ID # S09-MCC-047
Summary of Salary Costs and Adjustments

F.1.PS

City's Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2007-08

Adverse Comment

Lieutenant I	\$	73.53	4,104.42	\$ 301,798.0
Lieutenant II		74.90	5,697.18	426,718.78
Captain I		73.00	2,756.70	201,239.10
Captain II		82.37	3,981.90	327,989.10
Captain III		86.45	3,491.82	301,867.84
Sergeant I		62.48	12,435.78	776,987.53
Sergeant II		67.04	4,104.42	275,160.32
Detective I		57.40	306.30	17,581.62
Detective II		61.65	5,697.18	351,231.15
Detective III		64.73	4,471.98	289,471.27
Police Off II		53.65	1,837.80	98,597.97
Clerk Typist *		22.86	306.30	7,002.02
Sr. Clerk Typist *		28.66	2,327.88	66,717.04
Police Serv Rep. I *		34.63	2,266.62	78,493.05
Mgmt Analyst II *		41.42	4,594.50	190,304.19
Principal Clerk Polic *		34.62	1,837.80	63,624.64
Subtotal			60,218.58	\$ 3,774,784
Total			107,699.09	\$ 6,699,960

Auditors' Analysis					
Allowed PHR	Allowed Hours	Allowed Hours times Claimed PHR	Allowed Salary (Allowed Hours times Allowed PHR)	Adjustment I Hour-related	Adjustment II PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

F.4.1

\$ 71.93	3,246.78	\$ 238,735.73	\$ 233,540.89	\$ (63,062.27)	\$ (5,194.85)
76.24	5,635.92	422,130.41	429,682.54	(4,588.37)	7,552.13
78.92	2,634.18	192,295.14	207,889.49	(8,943.96)	15,594.00
89.05	4,104.42	338,081.08	365,498.60	10,091.97	27,417.53
93.46	3,185.52	275,388.20	297,718.70	(26,479.64)	22,330.50
61.33	1,041.42	65,067.92	63,870.29	(711,919.61)	(1,197.63)
65.12	3,675.60	246,412.22	239,355.07	(28,748.09)	(7,057.15)
57.53	306.30	17,581.62	17,621.44	-	39.82
61.90	2,572.92	158,621.00	159,263.75	(192,610.15)	642.75
68.08	4,410.72	285,505.91	300,281.82	(3,965.36)	14,775.91
47.97	122.52	6,573.20	5,877.28	(92,024.77)	(695.91)
24.74	306.30	7,002.02	7,577.86	-	575.84
31.02	1,347.72	38,625.66	41,806.27	(28,091.39)	3,180.62
37.48	1,102.68	38,185.81	41,328.45	(40,307.24)	3,142.64
44.83	-	-	-	(190,304.19)	-
37.47	-	-	-	(63,624.64)	-
	33,693.00	\$ 2,330,206	\$ 2,411,312	\$ (1,444,578)	\$ 81,106
	37,797.42	\$ 2,580,212	\$ 2,664,537	\$ (4,119,748)	\$ 84,325

G.1.PS

G1.1

G1.1

L1.1

F.1.1

* Civilian Employees. The city calculated a separate indirect cost rate for these classifications.

Cit of Los Angeles
Peace Officers Procedural Bill of Rights Program
FY's 2003-04 through 2007-08
Analysis of Claimed Activities

Program Background

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990 added and amended Government Code Sections 3300 through 3310. This legislation, known as the Peace Officers Procedural Bill of Rights (POBOR) was enacted to ensure stable employer-employee relations and effective law enforcement services.

This 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 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 on State Mandates (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code Section 17561 and adopted the statement of decision. The CSM determined that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the California Constitution, Article XIII B, Section 6, and Government Code Section 17514. The CSM further defined that activities covered by due process are not reimbursable.

The parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on July 27, 2000 and corrected it on August 17, 2000. The parameters and guidelines categorize reimbursable activities into the four following components: Administrative Activities, Administrative Appeal, Interrogation, and Adverse Comment. In compliance with Government Code Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming reimbursable costs.

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 POBOR test claim to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal. 4th 859 and other applicable court decisions. On April 26, 2006, CSM reviewed its original findings and adopted a Statement of Decision on reconsideration. The Statement of Decision became final on May 1, 2006. CSM found that the above-mentioned court case supports CSM's 1999 Statement of Decision. CSM further found that the test claim legislation constitutes a partial reimbursable state-mandated program for all activities previously approved by CSM 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.

Cit of Los Angeles
Peace Officers Procedural Bill of Rights Program
FY's 2003-04 through 2007-08
Analysis of Claimed Activities

- 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 CSM on this reconsideration applies to costs incurred and claimed beginning on July 1, 2006.

Pursuant to Government Code section 17557 and Title 2, California Code of Regulations, Section 1183.2, CSM adopted amended parameters and guidelines on March 28, 2008. The amended parameters and guidelines provides that claimants may be reimbursed for the reimbursable activities by claiming costs pursuant to the reasonable reimbursement methodology or by filing an actual cost claim. CSM adopted the reasonable reimbursement methodology to reimburse local agencies and school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), in lieu of payment of total actual costs incurred for the reimbursable activities. The amended parameters and guidelines apply to costs incurred and claimed beginning on July 1, 2006.

The reasonable reimbursement methodology shall allow each eligible claimant to be reimbursed at the rate of \$37.25 per full-time sworn peace officer employed by the agency and reported to the Department of Justice. The rate per full-time sworn peace officer shall be adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

Current Audit Background

For the purposes of this audit, we reviewed the city's time study, conducted by the Los Angeles Police Department in May of 2004. The time study was designed to keep track of POBOR related activities performed by the LAPD staff. The city used the time study results to claim costs for the current audit period covering FY's 2003-04 through 2007-08.

The city also used the same time study results to claim costs retroactively for the prior audit period, covering FY's 1994-95 through 2001-02. Our office has audited prior year claims and made adjustments to the city's time study results.

One of the objectives of the current audit was to take a fresh look at the city's time study and revisit prior findings. We've been able to sit down with the city's staff and go over the time study methodology and activities included in the time study. After discussing these activities we reached the conclusions described further in this document.

The following is our analysis of activities claimed by the City of Los Angeles and the guidelines for reimbursable activities as outlined in the parameters and guidelines.

Cit of Los Angeles
Peace Officers Procedural Bill of Rights Program
FY's 2003-04 through 2007-08
Analysis of Claimed Activities

ADMINISTRATIVE ACTIVITIES

The parameters and guidelines for the POBOR program allow reimbursement for the following Administrative Activities:

- ❖ Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.
- ❖ Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate.
- ❖ "Updating the status report of mandate-reimbursable POBAR-activities"-tracking the procedural status of the mandate-reimbursable activities only.

Administrative activities claimed by LAPD and analysis of allowable and unallowable activities:

1. Comment – The Administrative Records section in Internal Affairs performs this task by creating a file and a case number when the Professional Standards Bureau receives a 1.28 complaint form. Per LAPD staff, this activity is an internal procedure created by LAPD to ensure compliance with the investigation time frame of 1 year (complaint has to be completed within one year of initiation).
 - ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases"
 - ❖ Also, the 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Activities occurring before the assignment of the case to an administrative investigator" are not reimbursable. "These activities including taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation" are not reimbursable.
2. Locate - The complaint Classifications Unit reads the 1.28(complaint form) and determines the best entity to investigate. After it is determined which entity is to investigate, the 1.28 is sent to administrative records section.
 - ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases"
 - ❖ Also, the 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Activities occurring before the assignment of the case to an administrative investigator" are not reimbursable. "These activities including taking an initial complaint,

Cit of Los Angeles
Peace Officers Procedural Bill of Rights Program
FY's 2003-04 through 2007-08
Analysis of Claimed Activities

setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation" are not reimbursable.

3. **Status** - This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per LAPD staff, the cases are updated for every activity and/or procedural change.

❖ **Allowable:**

- ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "Updating the status report of mandate-reimbursable POBOR activities' means that only tracking the procedural status of the mandate-reimbursable activities" is reimbursable.

4. **Assign** - This activity is solely updating the database and noting the case assignment to an investigator for adjudication.

❖ **Allowable:**

- ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 7, states that "Identification of the interrogating officers" is reimbursable.
- ❖ Also, the 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "Updating the status report of mandate-reimbursable POBAR activities' means that only tracking the procedural status of the mandate-reimbursable activities" is reimbursable.

5. **Invest** - When the investigation is complete, it is sent to the Review and Evaluation Section. This function consists of updating the database.

❖ **Unallowable:**

- ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "...Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases".

6. **IA Review** - This is the time it takes to update the database for Internal Affairs' review. Per LAPD staff, this activity is similar to Invest, but another IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It is another type of review and another change in status.

❖ **Unallowable:**

- ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "...Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases."

Cit of Los Angeles
Peace Officers Procedural Bill of Rights Program
FY's 2003-04 through 2007-08
Analysis of Claimed Activities

7. Appeal - The case is going to the Advocate Section where another file is created and entered into the Advocate Database. Per LAPD staff, during this activity the case is in the appeal phase and is no longer being investigated or reviewed. This activity pertains to LAPD's procedural process of transferring a case in its Advocate Unit, tracking the appeal process, and tracking where the case is.
- ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "...Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases".
8. Note - This activity is distributing copies of the face sheet (contains the summary of allegations and the names of the involved parties) to concerned entities. This activity occurs in the Administrative Records Section (ARS) and is the time it takes to update the database to perform this activity.
- ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "...Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases".
 - ❖ Also, the 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Investigation activities, including... reviewing the allegations, communicating with other departments..." are not reimbursable.
9. Close out - The Administrative Records Section closes out the case file and documents this activity. This is an update database function.
- ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "...Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases".
 - ❖ Also, the 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation" are not reimbursable.

Cit of Los Angeles
Peace Officers Procedural Bill of Rights Program
FY's 2003-04 through 2007-08
Analysis of Claimed Activities

ADVERSE COMMENT

The parameters and guidelines for the POBOR program allow these adverse comment activities for reimbursement:

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

Adverse comment activities claimed by LAPD and analysis of allowable and unallowable activities:

1. **Preliminary** – This activity involves the investigation of the circumstances of the adverse comment.

- ❖ **Unallowable:**
- ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Investigation activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses" are not reimbursable.
- ❖ Also, the 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "investigating a complaint", "interviewing a complainant", and "preparing a complaint investigation report" are not reimbursable activities.

2. **Review** – This activity involves the review of the 1.28 (complaint form) and the circumstances leading to the adverse comment. This is the preliminary review of the comment to determine if it's an adverse comment and warrants further investigation. The Complaint Classification Unit performs this activity. This activity also includes the time it takes to prepare a face sheet concerning the complaint (contains the summary of allegations and the names of the involved parties). Per LAPD staff - the face sheet is part of the accused officer's background information.

- ❖ **Allowable:**
- ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "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" are reimbursable activities. Same section also states that "Preparation of notice of adverse comment" is also a reimbursable activity.

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3. Collect – This is the preliminary investigation conducted by Supervisors, Detectives, and the Command Staff in the Areas where the complaint was taken. This can include report writing, interviews, or any activity where information is gathered for the 1.28.
 - ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Investigation activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses" are not reimbursable.
 - ❖ Also, the 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "investigating a complaint", "interviewing a complainant", and "preparing a complaint investigation report" are not reimbursable activities.
4. Area Invest – This is for the time spent by the Areas to investigate the complaint or 1.28 (complaint form). This activity occurs after the preliminary investigation.
 - ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Investigation activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses" are not reimbursable.
 - ❖ Also, the 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "investigating a complaint", "interviewing a complainant", and "preparing a complaint investigation report" are not reimbursable activities.
5. Inspect – The assigned Advocate reviews the investigation for status and thoroughness.
 - ❖ Unallowable:
 - ❖ The 2008 parameters and guidelines, Section IV A (Administrative Activities), page 5, states that "...Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases."
6. Note – Providing notice to the Peace Officer of the adverse comment or complaint fact sheet. This is usually the first notice the subject receives of the complaint. This activity is associated with the first notice of adverse comment and that an investigation is taking place.
 - ❖ Allowable:
 - ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 10, states that that "providing notice of the adverse comment" is a reimbursable activity.

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Analysis of Claimed Activities

7. **Respond** – This activity is associated with the first notice of adverse comment and that an investigation is taking place. The activity provides the Officer an opportunity to respond within 30 days
- ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 10, states that "providing an opportunity to respond to the adverse comment within 30 days" is a reimbursable activity.
8. **Sign** – This activity occurs when the Officer under investigation reviews and signs the adverse comment or complaint fact sheet. This is the first notice of complaint from Internal Affairs.
- ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 10, states that "providing an opportunity to review and sign the adverse comment" and "obtaining the signature of the peace officer on the adverse comment" is a reimbursable activity.
9. **Refuse** – If the accused Officer refuses to sign the face sheet or initial the adverse comment, the time involved is noted. This is the first notice of a complaint.
- ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 10, states that "noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances" is a reimbursable activity.
10. **Approval** – This activity is the review by Internal Affairs Management of a completed case prior to it being sent to the Areas or Divisions for notification to the Officer under investigation.
- ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel..." is reimbursable.
11. **Adjudication** – This is the time committed by the Command Officer (accused Officer's Supervisor) of the Area to adjudicate the complaint. This would include a review of the completed complaint, and the formulation of a Letter of Transmittal (LOT).
- ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel..." is reimbursable.

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12. **CO Review** – According to LAPD staff, “CO review” is closely tied with “Adjudication.” This is the time committed by the Commanding Officer of the Area to review the complaint and LOT (Letter of Transmittal).

❖ **Allowable:**

- ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel..." is reimbursable.

13. **Preparation** – This activity is the preparation of the “Charge Sheet” for the Chief of Police to sign.

❖ **Allowable:**

- ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel..." and "preparation of notice of adverse comment" are reimbursable activities.

14. **Serve** – This activity is ensuring that the accused Officer is served with the “Charge Sheet” and obtaining the Officer’s signature or noting that the Officer refuses to sign the charge sheet.

❖ **Allowable:**

- ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 10 states that “providing an opportunity to review and sign the adverse comment” and “noting the peace officer's refusal to sign the adverse comment and obtaining the signature of the peace officer under such circumstances” is a reimbursable activity.

15. **Accuracy** – This activity involves reviewing the accused Officer’s response to the complaint or 1.28 (complaint form).

❖ **Allowable:**

- ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11 states that "review of peace officer's response to adverse comment" is a reimbursable activity.

16. **RE Invest** – This activity involves the time needed to conduct any additional investigations.

❖ **Unallowable:**

- ❖ The 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11 states that “investigating a complaint” is not a reimbursable activity.

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INTERROGATION ACTIVITIES

The parameters and guidelines for the POBOR program allow these interrogation activities for reimbursement:

- ❖ Compensating the peace officer for interrogations occurring during off-duty time.
- ❖ Providing notice to the peace officer before the interrogation.
- ❖ Recording the interrogation when the peace officer employee records the interrogation.
- ❖ Providing the peace officer employee with access to the recording prior to any further proceedings.
- ❖ 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.

Interrogation activities claimed by LAPD and analysis of allowable and unallowable activities:

The city of Los Angeles claimed the following activities under the component of Interrogations:

1. Admin Task (Administrative Task)
2. Call out
3. CO Contact (Commanding Officer Contact)
4. Evidence Collect
5. Interview in person
6. Interview Telephone
7. Kickback Editing
8. Meet/Brief/Notify
9. Non-Evidence Task
10. Paraphrasing
11. Prep for Interview
12. Report Formatting
13. Telephone contact
14. Travel
15. VI Computer Task

The city did not provide a formal description of the activities, listed above. However, per LAPD staff, these activities involved time for conducting investigations, collecting evidence, writing reports, and editing reports.

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Analysis of Claimed Activities

- ❖ Unallowable: (applies to all 15 activities mentioned above in this section)
- ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 9, states that "Investigation activities, including assigning an investigator to the case, reviewing the allegations, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses" are not reimbursable.
- ❖ Also, the 2008 parameters and guidelines, Section IV D (Adverse Comment), page 11, states that "investigating a complaint", "interviewing a complainant", and "preparing a complaint investigation report" are not reimbursable activities.

In addition, the activities mentioned above were not included in the time study supporting documents that were attached to the claims. Instead, the city's time study included the following activities under the component of Interrogations, none of which were actually included in the claims:

1. Interview – This activity is concerned with conducting the interrogation of the accused Officer. The activity notes the start and end time of the interrogation. Per LAPD staff, interrogations usually take place during normal working hours and rarely happen during overtime (during accused Officer's off-duty time). The city's time study did not specify if and when the Officers were paid overtime for the interviews.

- ❖ Unallowable:
- ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 7, states 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..."

2. ID, ID-A, ID-W – Providing prior notice to the Officer (accused and/or witness) regarding the nature of the interrogation and identification of the investigating Officer. This activity occurs in the Administrative or Criminal Investigation Division.

- ❖ Allowable:
- ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 7, states that "Providing notice to the peace officer before the interrogation..." and that "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 present during the interrogation..." are reimbursable activities... This section further states that "identification of the interrogating officers to (be) include(d) in the notice of interrogation".

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Analysis of Claimed Activities

3. **Determine** – Determination of the investigating Officers. This activity is assigned to the section Officer-in-Charge (OIC).
 - ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 7, states that "Providing notice to the peace officer before the interrogation..." and that "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 present during the interrogation..." are reimbursable activities.. This section further states that "identification of the interrogating officers to (be) include(d) in the notice of interrogation"

4. **Tape** – This activity involves tape recording the interrogation. Per LAPD staff, this activity rarely happens. In fact, no time increments were claimed for the tape recording activity.
 - ❖ **Allowable:** (only if the accused or witness officer or their attorney / representative requested the recording).
 - ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 7, states that "Recording the interrogation when the peace officer employee records the interrogation" is a reimbursable activity.

5. **Booking tape** – The activity is booking (storing) the tape at SID for storage.
 - ❖ **Allowable:**
 - ❖ The 2008 parameters and guidelines, Section IV C (Interrogation Activities), page 8, states that "The cost of media and storage, and the cost of transcription are reimbursable".

F.3.PS

Administrative Activities

* Activities in **BOLD** font are reimbursable

** See worksheet F.2.PS for analysis of time study activities

LAPD Database Minutes (counted by auditor)

Auditor's Calc of Allowable Min per case

Clerk Typist ^

Activity **	Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
Appeal	89	36	
Assign *	1,083	107	
Close Out	1,203	441	
Comment	5,002	578	
Invest	697	148	
Note Admin	3,519	253	
Status *	1,114	315	

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 12,707	Apply % to Average Min claimed sum (b) * 7
0		
1,083	8.52%	
0		
0		
0		
0		
1,114	8.77%	

Totals 12,707 1,878

7
7

2,197 17.29%

1.00 F.3.8

^ city claimed 7 min/case for this class

5.20616114

Senior Clerk Typist ^

	Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
Appeal	66	11	
Assign *	1,481	106	
Close Out	481	177	
Comment	1,985	249	
IA Review	10	9	
Invest	2,026	275	
Locate	17	4	
Note Admin	2,466	173	
Status *	1,935	244	

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 10,467	Apply % to Average Min claimed sum (b) * 8
0		
1,481	14.15%	
0		
0		
0		
0		
0		
1,935	18.49%	

10,467 1,248

8
8

3416 32.64%

3.00 F.3.8

^ city claimed 8 min/case for this class

9.76

Principal Clerk Police II ^

	Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
Comment	1,693	142	
Invest	5	1	
Locate	13	1	
Status *	82	16	

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1,793	Apply % to Average Min claimed sum (b) * 11
0		
0		
0		
82	4.57%	

1,793 160

11
11

82 4.57%

1.00 F.3.8

^ city claimed 11 min/case for this class

5.125

F.3.PS

Administrative Activities

* Activities in **BOLD** font are reimbursable

** See workpaper F.2.PS for analysis of time study activities

LAPD Database Minutes (counted by auditor)

Auditor's Calc of Allowable Min per case

Detective II ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Locate **1,493** **117** **13**
 ^ city claimed **13** min/case for this class

13
13

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1,493	Apply % to Average Min claimed sum (b) * 13
------------------------------------	--	--

0 **0.00%** **-**

F.3.8

Detective III ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Appeal **160** **11**
 Comment **20** **2**
 Locate **1,497** **140**
1,677 **153**
 ^ city claimed **19** mins/case for this class

19
19

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1,677	Apply % to Average Min claimed sum (b) * 11
------------------------------------	--	--

0
0
0 **0.00%** **-**

F.3.8

Sergeant I ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Locate **3** **1**
 ^ city claimed **3** min/case for this class

3
3

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 3	Apply % to Average Min claimed sum (b) * 3
------------------------------------	--	---

0 **0.00%** **-**

F.3.8

Sergeant II ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Assign * **1** **1**
 Comment **5** **1**
 IA Review **130** **5**
 Locate **1281** **205**
1,417 **212**
 ^ city claimed **7** min/case for this class

7
7

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1,417	Apply % to Average Min claimed sum (b) * 7
------------------------------------	--	---

1 **0.07%**
0
0
0
1 **0.07%** **-**

F.3.8

W/P F.3.3

F.3.PS

Administrative Activities

* Activities in **BOLD** font are reimbursable

** See worksheet F.2.PS for analysis of time study activities

LAPD Database Minutes (counted by auditor)

Auditor's Calc of Allowable Min per case

Lieutenant I ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1	Apply % to Average Min claimed sum (b) * 1
------------------------------------	--	---

Status * 1 1

1 100.00%

1 1

1
1

1 100.00%

1.00

F.3.8

^ city claimed 1 min/case for this class

1

Lieutenant II ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1	Apply % to Average Min claimed sum (b) * 1
------------------------------------	--	---

Appeal 2 1

- 0.00%

2 1

2
2

0 0.00%

-

F.3.8

^ city claimed 2 min/case for this class

Captain II ^ (did not find this activity for this class in the time study)

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
15	1	
15	1	

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 1	Apply % to Average Min claimed sum (b) * 1
------------------------------------	--	---

IA Review 15 1

- 0.00%

15 1

15
7

0 0.00%

-

F.3.8

^ city claimed 7 mins/case for this class

Captain III ^ (did not find this activity for this class in the time study)

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-----------------------------	----------------------------------	-------------------------------------

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 10	Apply % to Average Min claimed sum (b) * 10
------------------------------------	---	--

IA Review 10 1

- 0.00%

10 1

10
10

0 0.00%

-

F.3.8

^ city claimed 10 min/case for this case

F.3.PS

Adverse Comments

* Activities in **BOLD** font are reimbursable

** See worksheet F.2.PS for analysis of time study activities

Clerk Typist ^

Activity **	Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)
-------------	-----------------------------	----------------------------------	-------------------------------------

Accuracy *	4,194	1,282
Approval *	23	5

Totals	4,217	1,287	3
^ city claimed 3 min/case for this class			3

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 4,217	Apply % to Average Min claimed sum (b) *3
------------------------------------	--	--

4,194	99.45%
23	0.55%

4,217	100.00%	3.00	F.3.8
--------------	----------------	-------------	--------------

Senior Clerk Typist ^

Time Study-test of actual minutes/ activities provided.

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min (a) / (b)
-----------------------------	----------------------------------	--------------------------

Adjudication *	456	26
Approval *	55	26
Collect	311	27
Inspect	1,490	135
Preparation *	2,450	55
Serve *	907	34
Sign *	79	3

5,748	306	19
^ city claimed 23 min/case for this class		23

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) / 5748	Apply % to Average Min claimed sum (b) *19
------------------------------------	---	---

456	7.93%
55	0.96%
2,450	42.62%
907	15.78%
79	1.37%

3947	68.66%	13.00	F.3.8
-------------	---------------	--------------	--------------

27.41

Police Serv Rep ^

Time Study-test of actual minutes/ activities provided.

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min (a) / (b)
-----------------------------	----------------------------------	--------------------------

Adjudication *	519	18
CO Review *	30	1
Collect	450	19
Area Invest	320	16
Sign *	232	16

1,551	70	22
^ city claimed 22 min/case for this class		22

Allowed Min Per Activity (a)	% of Allowed Min to Sum of Min Claimed (b) =(a) /1551	Apply % to Average Min claimed sum (b) * 22
------------------------------------	--	--

519	33.46%
30	1.93%
232	14.96%

781	50.35%	11.00	F.3.8
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W/p F.3.3

F.3.PS

Adverse Comments

* Activities in **BOLD** font are reimbursable

Mgmt Analyst II ^

POBAR Time Study Summary for activities 3-11-09

Minutes	# of Entries	Average Min
Sum Total	(records)	Claimed
(a)	(b)	(a) / (b)

Collect 45 1

45	1	45
		45

^ city claimed 45 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 45	sum (b) *45

0 0.00% - **F.3.8**

Principal Clerk Police II ^

****Not found in time study. Must have been confused with Police Officer II**

POBAR Time Study Summary for activities 3-11-09

Minutes	# of Entries	Average Min
Sum Total	(records)	Claimed
(a)	(b)	(a) / (b)

**
**
**

-		-
0		
0		
		18

^ city claimed 18 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) /	sum (b) *

- 0.00%
0
0
0 0.00% - **F.3.8**

Police Officer II ^

POBAR Time Study Summary for activities 3-11-09

Minutes	# of Entries	Average Min
Sum Total	(records)	Claimed
(a)	(b)	(a) / (b)

Adjudication * 30 1
 Collect - 1
 Area Invest 895 50

925	52	18
		18

^ city claimed 18 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 925	sum (b) * 18

30 3.24%
30 3.24% 1.00 **F.3.8**

Detective I ^

POBAR Time Study Summary for activities 3-11-09

Minutes	# of Entries	Average Min
Sum Total	(records)	Claimed
(a)	(b)	(a) / (b)

Sign * 3 1

3	1	3
		3

^ city claimed 3 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 3	sum (b) * 3

3 100.00%
3 100.00% 3.00 **F.3.8**

F.3.PS

Adverse Comments

* Activities in **BOLD** font are reimbursable

Detective II ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Accuracy *	3,455	103	
Area Invest	4,440	31	
Collect	380	7	
Review *	90	2	
	8,365	143	58
			56

^ city claimed 56 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 8365	sum (b) *58

3,455	41.30%	
90	1.08%	
3545	42.38%	25.00

F.3.8

Detective III ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Accuracy *	551	26	
Approval *	3,265	63	
Collect	190	3	
Review *	580	11	
	4,586	103	45
			44

^ city claimed 44 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 4,586	sum (b) * 45

551	12.01%	
3,265	71.19%	
580	12.65%	
4396	95.85%	43.00

F.3.8

Sergeant I ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Accuracy *	155	4	
Adjudication *	3,930	27	
Area Invest	39,778	340	
Collect	11,002	74	
Note *	120	1	
Respond *	90	2	
Sign *	187	3	
	55,262	451	123
			122

^ city claimed 122 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 55,262 min	sum (b) *123

155	0.28%	
3,930	7.11%	
120	0.22%	
90	0.16%	
187	0.34%	
4,482	8.11%	10.00

F.3.8

F.3.PS

Adverse Comments

* Activities in **BOLD** font are reimbursable

Sergeant II ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Accuracy *	22,316	551	
Adjudication *	2	1	
Approval *	2,245	71	
Area Invest	1,455	13	
Collect	635	7	
RE Invest	825	15	
Review *	1,153	46	
Sign *	140	10	
	28,771	714	40
			40

^ city claimed 40 min/case

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
(a)	(b) =(a) /28,771min.	sum (b) *40

22,316	77.56%	
2	0.01%	
2,245	7.80%	
1,153	4.01%	
140	0.49%	
25856	89.87%	36.00

F.3.8

Lieutenant I ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Adjudication *	5,254	107	
Area Invest	200	4	
Collect	1,195	35	
Note *	5	1	
Sign *	250	26	
	6,904	173	40
			40

^ city claimed 40 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
(a)	(b) =(a) / 6,904min	sum (b) * 40

5,254	76.10%	
5	0.07%	
250	3.62%	
5509	79.79%	32.00

F.3.8

Lieutenant II ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Adjudication *	420	4	
Approval *	4,776	86	
Collect	90	2	
Note *	10	1	
Sign *	20	2	
	5,316	95	56
			56

^ city claimed 56 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
(a)	(b) =(a) / 5,316 min.	sum (b) *56

420	7.90%	
4,776	89.84%	
10	0.19%	
20	0.38%	
5226	98.31%	55.00

F.3.8

F.3.PS

Adverse Comments

* Activities in **BOLD** font are reimbursable

Captain I ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Adjudication *	1,725	52
Collect	125	13
Sign *	20	2

1,870	67	28
		27

^ city claimed 27 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) /1,870	sum (b) * 28

1,725 **92.25%**

20 **1.07%**

1745 **93.32%**

26.00

F.3.8

Captain II ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Accuracy *	85	3
Adjudication *	435	4
Approval *	275	13

795	20	40
		39

^ city claimed 39 min/case

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) /795	sum (b) * 40

85 **10.69%**

435 **54.72%**

275 **34.59%**

795 **100.00%**

40.00

F.3.8

Captain III ^

Time Study-test of actual minutes/ activities provided.

Minutes	# of Entries	Average Min
Sum Total	(records)	
(a)	(b)	(a) / (b)

Adjudication *	1510	31
Approval *	60	3
Area Invest	20	2
CO Review *	20	1
Collect	155	11
Sign *	45	4

1,810	52	35
		34

^ city claimed 34 min/case for this class

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
(a)	Min Claimed	claimed
	(b) =(a) / 1750	sum (b) * 18

1,510 **83.43%**

60 **3.31%**

20 **1.10%**

45 **2.49%**

1635 **90.33%**

31

F.3.8

W/P F.3.3.

F.3.PS

Interrogations Activities

* Activities in **BOLD** font are reimbursable

** See workpaper F.2.PS for analysis of time study activities

Detective I ^ ****Detective I did not appear in the time study**

Activity **	Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)	Allowed Min Per Activity	% of Allowed Min to Sum of Min Claimed	Apply % to Average Min claimed
Claimed:						
Admin Task	660	22				
Call out	-	-				
co Contact	-	-				
Evidence Collect	174	6				
Interview in person	-	-				
Interview Telephone	888	8				
Kickback Editing	810	5				
Meet/Brief/Notify	-	-				
Non-Evidence Task	126	7				
Paraphrasing	756	6				
Prep for Interview	120	2				
Report Formatting	12	1				
Telephone contact	408	38				
Travel	78	4				
VI Computer Task	-	-				
	4,032	99	41	0	0.00%	0
^ city claimed 41 min/case						
			41			

***No activities in time study for this classification**

- - - **0 0.00% -** **F.3.8**

Detective II ^

Activity **	Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)	Allowed Min Per Activity	% of Allowed Min to Sum of Min Claimed	Apply % to Average Min claimed
Claimed:						
Admin Task	5,982	204				
Call out	-	-				
co Contact	276	14				
Evidence Collect	6,180	131				
Interview in person	10,716	110				
Interview Telephone	1,056	38				
Kickback Editing	1,926	24				
Meet/Brief/Notify	1,152	59				
Non-Evidence Task	5,022	105				
Paraphrasing	16,230	109				
Prep for Interview	1,926	51				
Report Formatting	14,274	94				
Telephone contact	8,556	699				
Travel	3,684	60				
VI Computer Task	264	19				
	77,244	1,717	45	0	0.00%	0
^ city claimed 45 min/case for this class						
			45			

W/P F.3.3.

F.3.PS

Interrogations Activities

Activities in time study for this class, but not claimed, are as follows:

	(a)	(b) =(a) / 3,423	sum (b) * 27
Access *	85	2.48%	
Booking *	-	-	
Booking Tape *	45	1.31%	
ID *	449	13.12%	
ID-W *	44	1.29%	
Interview	2,800		
	3,423	18.20%	5.00
			27

Detective III ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)	Allowed Min Per Activity	% of Allowed Min to Sum of Min Claimed	Apply % to Average Min claimed
Claimed:					
Admin Task	1,926	48			
Call out	-	-			
co Contact	-	-			
Evidence Collect	12	2			
Interview in person	60	1			
Interview Telephone	18	1			
Kickback Editing	-	-			
Meet/Brief/Notify	84	3			
Non-Evidence Task	6	1			
Paraphrasing	-	-			
Prep for Interview	-	-			
Report Formatting	510	4			
Telephone contact	78	11			
Travel	-	-			
VI Computer Task	-	-			
	2,694	71	0	0.00%	-
		38			

^ city claimed 38 min/case for this class

Activities in time study for this class, but not claimed, are as follows:

	(a)	(b) =(a) / 590	sum (b) * 24
Determine *	335	56.78%	
Interview	255		
	590	56.78%	13.00

Sergeant I ^

Minutes Sum Total (a)	# of Entries (records) (b)	Average Min Claimed (a) / (b)	Allowed Min Per Activity	% of Allowed Min to Sum of Min Claimed	Apply % to Average Min claimed
Claimed:					
Admin Task	1,584	79			
Call out					
co Contact	24	2			
Evidence Collect	864	22			
Interview in person	4,626	43			
Interview Telephone	288	14			

W/P F.3.3

F.3.PS

Interrogations Activities

Kickback Editing	1,092	22
Meet/Brief/Notify	642	31
Non-Evidence Task	1,290	20
Paraphrasing	5,250	45
Prep for Interview	1,938	55
Report Formatting	8,172	60
Telephone contact	1,920	259
Travel	1,476	21
VI Computer Task		

29,166 **673**

43
43

0 **0.00%** **-**

^ city claimed 43 min/case for this class

Activites in time study for this class, but not claimed, are as follows:

ID *	85	12
ID-A *	66	6
Interview	350	13
	501	31

16

(a)	(b) =(a) 501	sum (b) * 16
85	16.97%	
66	13.17%	
-		
151	30.14%	5.00

F.3.8

Sergennt II ^

Minutes	# of Entries	Average Min
Sum Total	(records)	Claimed
(a)	(b)	(a) / (b)

Claimed:

Admin Task	13,488	356
Call out	30	1
co Contact	468	35
Evidence Collect	5,802	147
Interview in person	16,728	256
Interview Telephone	1,410	66
Kickback Editing	2,928	34
Meet/Brief/Notify	2,562	107
Non-Evidence Task	5,820	170
Paraphrasing	35,616	224
Prep for Interview	5,832	129
Report Formatting	36,930	209
Telephone contact	9,756	969
Travel	4,380	119
VI Computer Task		

141,750 **2,822**

50
50

^ city claimed 50 min/case for this classification

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
	Min Claimed	claimed

0 **0.00%** **-**

Activites in time study for this class, but not claimed, are as follows:

Access *	157	5
Booking *	200	7
Booking Tape *	77	5
Determine *	135	4
ID *	712	84
ID-A *	472	64
ID-W *	876	55
Interview	10,345	208
	12,974	432

30

(a)	(b) =(a) / 12,974	sum (b) *30
157	1.21%	
200	1.54%	
77	0.59%	
135	1.04%	
712	5.49%	
472	3.64%	
876	6.75%	
-		
2,629	20.26%	6.00

F.3.8

Audit ID # S09-MCC-047

Time Study Activities-Interrogations

W/P F.3.3

F.3.PS

Interrogations Activities

Lieutenant I ^

POBAR Time Study Summary for activities

Minutes	# of Entries	Average Min
Sum Total	(records)	Claimed
(a)	(b)	(a) / (b)

Claimed:

Admin Task	1,410	17
Call out		
co Contact		
Evidence Collect		
Interview in person		
Interview Telephone		
Kickback Editing	30	1
Meet/Brief/Notify	36	2
Non-Evidence Task		
Paraphrasing		
Prep for Interview		
Report Formatting		
Telephone contact	42	5
Travel		
VI Computer Task		

1,518

25

61

^ city claimed 61 min/case for this class

61

Activities in time study for this class, but not claimed, are as follows:

ID *	10	1
Interview	30	1
	40	2
		20

Allowed Min	% of Allowed	Apply %
Per Activity	Min to Sum of	to Average Min
	Min Claimed	claimed

0

0.00%

-

(a)

(b) =(a) /40

sum (b) * 20

10

25.00%

-

10

25.00%

5.00

F.3.8

Administrative Activities

F.3.PS

	Claimed Information		Auditor Verified		Allowed	
	Average Time	Time Claimed	Min per Case	Hours per case	Allowed	Allowed
	Claimed	per case	as per Adjust 1	(Adj 1 only)	Min per Case	Hours per case
	(minutes)	(in hours)	(math errors)	(math errors)	% of allow activ	(f) = (e) / 60
	(a)	(b) = (a) / 60	(c)	(d) = (c) / 60	(e)	(f) = (e) / 60
Clerk Typist	7.00	0.12	N/A	N/A	1.00	0.02
Senior Clerk Typist	8.00	0.13	N/A	N/A	3.00	0.05
Principal Clerk Police II	11.00	0.18	N/A	N/A	1.00	0.02
Detective II	13.00	0.22	N/A	N/A	-	-
Detective III	19.00	0.32	N/A	N/A	-	-
Sergeant I	3.00	0.05	N/A	N/A	-	-
Sergeant II	7.00	0.12	N/A	N/A	-	-
Lieutenant I	1.00	0.02	N/A	N/A	1.00	0.02
Lieutenant II	2.00	0.03	N/A	N/A	-	-
Captain II	7.00	0.12	N/A	N/A	-	-
Captain III	10.00	0.17	N/A	N/A	-	-
		1.47				0.11

did not appear in the time study
 did not appear in the time study

Adverse Comment

	Claimed Information		Auditor Verified		Allowed	
	Average Time	Time Claimed	Min per Case	Hours per case	Allowed	Allowed
	Claimed	per case	as per Adjust 1	(Adj 1 only)	Min per Case	Hours per case
	(minutes)	(in hours)	(math errors)	(math errors)	% of allow activ	(Adj 1 and 2)
	(a)	(b) = (a) / 60	(c)	(d) = (c) / 60	(e)	(f) = (e) / 60
Clerk Typist	3.00	0.05	3.00	0.05	3.00	0.05
Senior Clerk Typist	23.00	0.38	19.00	0.32	13.00	0.22
Police Serv Rep	22.00	0.37	22.00	0.37	11.00	0.18
Mgmt Analyst II	45.00	0.75	45.00	0.75	-	-
Principal Clerk Police II	18.00	0.30	18.00	0.30	-	-
Police Officer II	18.00	0.30	18.00	0.30	1.00	0.02
Detective I	3.00	0.05	3.00	0.05	3.00	0.05
Detective II	56.00	0.93	58.00	0.97	25.00	0.42
Detective III	44.00	0.73	45.00	0.75	43.00	0.72
Sergeant I	122.00	2.03	123.00	2.05	10.00	0.17
Sergeant II	40.00	0.67	40.00	0.67	36.00	0.60
Lieutenant I	40.00	0.67	40.00	0.67	32.00	0.53
Lieutenant II	56.00	0.93	56.00	0.93	55.00	0.92
Captain I	27.00	0.45	28.00	0.47	26.00	0.43
Captain II	39.00	0.65	40.00	0.67	40.00	0.67
Captain III	34.00	0.57	35.00	0.58	31.00	0.52
		9.83		9.90		5.50

did not appear in the time study

Interrogations

	Claimed Information		Auditor Verified		Allowed	
	Average Time	Time Claimed	Min per Case	Hours per case	Allowed	Allowed
	Claimed	per case	as per Adjust 1	(Adj 1 only)	Min per Case	Hours per case
	(minutes)	(in hours)	(math errors)	(math errors)	% of allow activ	(f) = (e) / 60
	(a)	(b) = (a) / 60	(c)	(d) = (c) / 60	(e)	(f) = (e) / 60
Detective I	40.74	0.68	N/A	N/A	-	-
Detective II	45.00	0.75	N/A	N/A	5.00	0.08
Detective III	37.92	0.63	N/A	N/A	13.00	0.22
Sergeant I	43.32	0.72	N/A	N/A	5.00	0.08
Sergeant II	50.22	0.84	N/A	N/A	6.00	0.10
Lieutenant I	60.72	1.01	N/A	N/A	5.00	0.08
		4.63				0.56

did not appear in the time study

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Years 2003-04 Through 2007-08
Audit ID # S09-MCC-047

Allowable Hours for FY 2003-04

F.3.PS

Administrative Activities

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2003-04
	(a)	(b) = (a) / 60	(c) = (b) * 5394
	F.3.5		
Clerk Typist	7.00	0.12	647.28
Senior Clerk Typist	8.00	0.13	701.22
Principal Clerk Police II	11.00	0.18	970.92
Detective II	13.00	0.22	1,186.68
Detective III	19.00	0.32	1,726.08
Sergeant I	3.00	0.05	269.70
Sergeant II	7.00	0.12	647.28
Lieutenant I	1.00	0.02	107.88
Lieutenant II	2.00	0.03	161.82
Captain II	7.00	0.12	647.28
Captain III	10.00	0.17	916.98
		1.47	7,983.11

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2003-04	Audit Adjustment (in hours) (g) = (f) - (c)
	(d)	(e) = (d) / 60	(f) = (e) * 5394	
F.3.3	1.00	0.02	107.88	(539.40)
F.3.3	3.00	0.05	269.70	(431.52)
F.3.3	1.00	0.02	107.88	(863.04)
F.3.3	-	-	-	(1,186.68)
F.3.3	-	-	-	(1,726.08)
F.3.3	-	-	-	(269.70)
F.3.3	-	-	-	(647.28)
F.3.3	1.00	0.02	107.88	-
F.3.3	-	-	-	(161.82)
F.3.3	-	-	-	(647.28)
F.3.3	-	-	-	(916.98)
		0.11	593.34	(7,389.78)

F.1.1

Adverse Comment

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2003-04
	(a)	(b) = (a) / 60	(c) = (b) * 5394
	F.3.6		
Clerk Typist	3.00	0.05	269.70
Senior Clerk Typist	23.00	0.38	2,049.72
Police Serv Rep	22.00	0.37	1,995.78
Mgmt Analyst II	45.00	0.75	4,045.50
Principal Clerk Police II	18.00	0.30	1,618.20
Police Officer II	18.00	0.30	1,618.20
Detective I	3.00	0.05	269.70
Detective II	56.00	0.93	5,016.42
Detective III	44.00	0.73	3,937.62
Sergeant I	122.00	2.03	10,949.82
Sergeant II	40.00	0.67	3,613.98
Lieutenant I	40.00	0.67	3,613.98
Lieutenant II	56.00	0.93	5,016.42
Captain I	27.00	0.45	2,427.30
Captain II	39.00	0.65	3,506.10
Captain III	34.00	0.57	3,074.58
		9.83	53,023.02

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2003-04	Audit Adjustment (in hours) (g) = (f) - (c)
	(d)	(e) = (d) / 60	(f) = (e) * 5394	
F.3.3	3.00	0.05	269.70	-
F.3.3	13.00	0.22	1,186.68	(863.04)
F.3.3	11.00	0.18	970.92	(1,024.86)
F.3.3	-	-	-	(4,045.50)
F.3.3	-	-	-	(1,618.20)
F.3.3	1.00	0.02	107.88	(1,510.32)
F.3.3	3.00	0.05	269.70	-
F.3.3	25.00	0.42	2,265.48	(2,750.94)
F.3.3	43.00	0.72	3,883.68	(53.94)
F.3.3	10.00	0.17	916.98	(10,032.84)
F.3.3	36.00	0.60	3,236.40	(377.58)
F.3.3	32.00	0.53	2,858.82	(755.16)
F.3.3	55.00	0.92	4,962.48	(53.94)
F.3.3	26.00	0.43	2,319.42	(107.88)
F.3.3	40.00	0.67	3,613.98	107.88
F.3.3	31.00	0.52	2,804.88	(269.70)
		5.50	29,667.00	(23,356.02)

F.1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Years 2003-04 Through 2007-08
 Audit ID # S09-MCC-047

Allowable Hours for FY 2003-04

Interrogations

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2003-04
	(a)	(b) = (a) / 60	(c) = (b) * 5394
	F.3.7		
Detective I	40.74	0.68	3,662.53
Detective II	45.00	0.75	4,045.50
Detective III	37.92	0.63	3,409.01
Sergeant I	43.32	0.72	3,894.47
Sergeant II	50.22	0.84	4,514.78
Lieutenant I	60.72	1.01	5,458.73
PO II Wit interview			2,211.54
PO II Subject interview			5,968.88
		4.63	33,165.43

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2003-04	Audit Adjustment (in hours)
	(d)	(e) = (d) / 60	(f) = (e) * 5394	(g) = (f) - (c)
	F.3.3	-	-	(3,662.53)
	F.3.3	5.00	431.52	(3,613.98)
	F.3.3	13.00	1,186.68	(2,222.33)
	F.3.3	5.00	431.52	(3,462.95)
	F.3.3	6.00	539.40	(3,975.38)
	F.3.3	5.00	431.52	(5,027.21)
			-	(2,211.54)
			-	(5,968.88)
		0.56	3,020.64	(30,144.79)

F.1.1

F.1.PS

H.1.1

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Years 2003-04 Through 2007-08
Audit ID # S09-MCC-047

Allowable Hours for FY 2004-05

F.3.PS

Administrative Activities

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2004-05
	(a)	(b) = (a) / 60	(c) = (b) * 4316
F.3.5			
Clerk Typist	7.00	0.12	517.92
Senior Clerk Typist	8.00	0.13	561.08
Principal Clerk Police II	11.00	0.18	776.88
Detective II	13.00	0.22	949.52
Detective III	19.00	0.32	1,381.12
Sergeant I	3.00	0.05	215.80
Sergeant II	7.00	0.12	517.92
Lieutenant I	1.00	0.02	86.32
Lieutenant II	2.00	0.03	129.48
Captain II	7.00	0.12	517.92
Captain III	10.00	0.17	733.72
		1.47	6,387.67

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2004-05	Audit Adjustment (in hours)
	(d)	(e) = (d) / 60	(f) = (e) * 4316	(g) = (f) - (c)
F.3.3				
F.3.3	1.00	0.02	86.32	(431.60)
F.3.3	3.00	0.05	215.80	(345.28)
F.3.3	1.00	0.02	86.32	(690.56)
F.3.3	-	-	-	(949.52)
F.3.3	-	-	-	(1,381.12)
F.3.3	-	-	-	(215.80)
F.3.3	-	-	-	(517.92)
F.3.3	1.00	0.02	86.32	-
F.3.3	-	-	-	(129.48)
F.3.3	-	-	-	(517.92)
F.3.3	-	-	-	(733.72)
		0.11	474.76	(5,912.92)

F.1.1

Adverse Comment

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2004-05
	(a)	(b) = (a) / 60	(c) = (b) * 4316
F.3.6			
Clerk Typist	3.00	0.05	215.80
Senior Clerk Typist	23.00	0.38	1,640.08
Police Serv Rep	22.00	0.37	1,596.92
Mgmt Analyst II	45.00	0.75	3,237.00
Principal Clerk Police II	18.00	0.30	1,294.80
Police Officer II	18.00	0.30	1,294.80
Detective I	3.00	0.05	215.80
Detective II	56.00	0.93	4,013.88
Detective III	44.00	0.73	3,150.68
Sergeant I	122.00	2.03	8,761.48
Sergeant II	40.00	0.67	2,891.72
Lieutenant I	40.00	0.67	2,891.72
Lieutenant II	56.00	0.93	4,013.88
Captain I	27.00	0.45	1,942.20
Captain II	39.00	0.65	2,805.40
Captain III	34.00	0.57	2,460.12
		9.83	42,426.28

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2004-05	Audit Adjustment (in hours)
	(d)	(e) = (d) / 60	(f) = (e) * 4316	(g) = (f) - (c)
F.3.3				
F.3.3	3.00	0.05	215.80	-
F.3.3	13.00	0.22	949.52	(690.56)
F.3.3	11.00	0.18	776.88	(820.04)
F.3.3	-	-	-	(3,237.00)
F.3.3	-	-	-	(1,294.80)
F.3.3	1.00	0.02	86.32	(1,208.48)
F.3.3	3.00	0.05	215.80	-
F.3.3	25.00	0.42	1,812.72	(2,201.16)
F.3.3	43.00	0.72	3,107.52	(43.16)
F.3.3	10.00	0.17	733.72	(8,027.76)
F.3.3	36.00	0.60	2,589.60	(302.12)
F.3.3	32.00	0.53	2,287.48	(604.24)
F.3.3	55.00	0.92	3,970.72	(43.16)
F.3.3	26.00	0.43	1,855.88	(86.32)
F.3.3	40.00	0.67	2,891.72	86.32
F.3.3	31.00	0.52	2,244.32	(215.80)
		5.50	23,738.00	(18,688.28)

F.1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Years 2003-04 Through 2007-08
Audit ID # S09-MCC-047

Allowable Hours for FY 2004-05

Interrogations

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2004-05
	(a)	(b) = (a) / 60	(c) = (b) * 4316
	F.3.7		
Detective I	40.74	0.68	2,930.56
Detective II	45.00	0.75	3,237.00
Detective III	37.92	0.63	2,727.71
Sergeant I	43.32	0.72	3,116.15
Sergeant II	50.22	0.84	3,612.49
Lieutenant I	60.72	1.01	4,367.79
PO II Wit interview			1,769.56
PO II Subject interview			4,673.63
		4.63	26,434.90

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2004-05	Audit Adjustment (in hours) (g) = (f) - (c)
	(d)	(e) = (d) / 60	(f) = (e) * 4316	
	F.3.3			
	-	-	-	(2,930.56)
	F.3.3	5.00	0.08	345.28
	F.3.3	13.00	0.22	949.52
	F.3.3	5.00	0.08	345.28
	F.3.3	6.00	0.10	431.60
	F.3.3	5.00	0.08	345.28
			-	(1,769.56)
			-	(4,673.63)
		0.56	2,416.96	(24,017.94)

F.1.1

F.1.PS

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Years 2003-04 Through 2007-08

Audit ID # S09-MCC-047

F.3.PS

Allowable Hours for FY 2005-06

Administrative Activities

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2005-06
	(a)	(b) = (a) / 60	(c) = (b) * 4721
F.3.5			
Clerk Typist	7.00	0.12	566.52
Senior Clerk Typist	8.00	0.13	613.73
Principal Clerk Police II	11.00	0.18	849.78
Detective II	13.00	0.22	1,038.62
Detective III	19.00	0.32	1,510.72
Sergeant I	3.00	0.05	236.05
Sergeant II	7.00	0.12	566.52
Lieutenant I	1.00	0.02	94.42
Lieutenant II	2.00	0.03	141.63
Captain II	7.00	0.12	566.52
Captain III	10.00	0.17	802.57
		1.47	6,987.07

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2005-06	Audit Adjustment (in hours)
	(d)	(e) = (d) / 60	(f) = (e) * 4721	(g) = (f) - (c)
F.3.3				
F.3.3	1.00	0.02	94.42	(472.10)
F.3.3	3.00	0.05	236.05	(377.68)
F.3.3	1.00	0.02	94.42	(755.36)
F.3.3	-	-	-	(1,038.62)
F.3.3	-	-	-	(1,510.72)
F.3.3	-	-	-	(236.05)
F.3.3	-	-	-	(566.52)
F.3.3	1.00	0.02	94.42	-
F.3.3	-	-	-	(141.63)
F.3.3	-	-	-	(566.52)
F.3.3	-	-	-	(802.57)
		0.11	519.31	(6,467.77)

F.1.1

Adverse Comment

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2005-06
	(a)	(b) = (a) / 60	(c) = (b) * 4721
F.3.6			
Clerk Typist	3.00	0.05	236.05
Senior Clerk Typist	23.00	0.38	1,793.98
Police Serv Rep	22.00	0.37	1,746.77
Mgmt Analyst II	45.00	0.75	3,540.75
Principal Clerk Police II	18.00	0.30	1,416.30
Police Officer II	18.00	0.30	1,416.30
Detective I	3.00	0.05	236.05
Detective II	56.00	0.93	4,390.53
Detective III	44.00	0.73	3,446.33
Sergeant I	122.00	2.03	9,583.63
Sergeant II	40.00	0.67	3,163.07
Lieutenant I	40.00	0.67	3,163.07
Lieutenant II	56.00	0.93	4,390.53
Captain I	27.00	0.45	2,124.45
Captain II	39.00	0.65	3,068.65
Captain III	34.00	0.57	2,690.97
		9.83	46,407.43

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2005-06	Audit Adjustment (in hours)
	(d)	(e) = (d) / 60	(f) = (e) * 4721	(g) = (f) - (c)
F.3.3				
F.3.3	3.00	0.05	236.05	-
F.3.3	13.00	0.22	1,038.62	(755.36)
F.3.3	11.00	0.18	849.78	(896.99)
F.3.3	-	-	-	(3,540.75)
F.3.3	-	-	-	(1,416.30)
F.3.3	1.00	0.02	94.42	(1,321.88)
F.3.3	3.00	0.05	236.05	-
F.3.3	25.00	0.42	1,982.82	(2,407.71)
F.3.3	43.00	0.72	3,399.12	(47.21)
F.3.3	10.00	0.17	802.57	(8,781.06)
F.3.3	36.00	0.60	2,832.60	(330.47)
F.3.3	32.00	0.53	2,502.13	(660.94)
F.3.3	55.00	0.92	4,343.32	(47.21)
F.3.3	26.00	0.43	2,030.03	(94.42)
F.3.3	40.00	0.67	3,163.07	94.42
F.3.3	31.00	0.52	2,454.92	(236.05)
		5.50	25,965.50	(20,441.93)

F.1.1

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Years 2003-04 Through 2007-08

Audit ID # S09-MCC-047

F.3.PS

Allowable Hours for FY 2005-06

Interrogations

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2005-06
	(a)	(b) = (a) / 60	(c) = (b) * 4721
	F.3.7		
Detective I	40.74	0.68	3,205.56
Detective II	45.00	0.75	3,540.75
Detective III	37.92	0.63	2,983.67
Sergeant I	43.32	0.72	3,408.56
Sergeant II	50.22	0.84	3,951.48
Lieutenant I	60.72	1.01	4,777.65
PO II Wit interview			1,935.61
PO II Subject interview			5,128.75
		4.63	28,932.03

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2005-06	Audit Adjustment (in hours) (g) = (f) - (c)
	(d)	(e) = (d) / 60	(f) = (e) * 4721	
	F.3.3			
	-	-	-	(3,205.56)
	F.3.3	5.00	0.08	377.68
	F.3.3	13.00	0.22	1,038.62
	F.3.3	5.00	0.08	377.68
	F.3.3	6.00	0.10	472.10
	F.3.3	5.00	0.08	377.68
			-	(1,935.61)
			-	(5,128.75)
		0.56	2,643.76	(26,288.27)

F.1.1

F.1.PS

City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Years 2003-04 Through 2007-08
Audit ID # S09-MCC-047

F.3.PS

Allowable Hours for FY 2006-07

Administrative Activities

Claimed Information

	Average Time Claimed (minutes) (a)	Time Claimed per case (in hours) (b) = (a) / 60	Hours Claimed FY 2006-07 (c) = (b) * 4200
	F.3.5		
Clerk Typist	7.00	0.12	504.00
Senior Clerk Typist	8.00	0.13	546.00
Principal Clerk Police II	11.00	0.18	756.00
Detective II	13.00	0.22	924.00
Detective III	19.00	0.32	1,344.00
Sergeant I	3.00	0.05	210.00
Sergeant II	7.00	0.12	504.00
Lieutenant I	1.00	0.02	84.00
Lieutenant II	2.00	0.03	126.00
Captain II	7.00	0.12	504.00
Captain III	10.00	0.17	714.00
		1.47	6,215.99

Audited Information

	Allowed Min per Case % of allow activ (d)	Allowed Hours per case (e) = (d) / 60	Allowed Hours FY 2006-07 (f) = (e) * 4200	Audit Adjustment (in hours) (g) = (f) - (c)
	F.3.3			
	1.00	0.02	84.00	(420.00)
	3.00	0.05	210.00	(336.00)
	1.00	0.02	84.00	(672.00)
	-	-	-	(924.00)
	-	-	-	(1,344.00)
	-	-	-	(210.00)
	-	-	-	(504.00)
	1.00	0.02	84.00	-
	-	-	-	(126.00)
	-	-	-	(504.00)
	-	-	-	(714.00)
		0.11	462.00	(5,754.00)

F.1.1

Adverse Comment

Claimed Information

	Average Time Claimed (minutes) (a)	Time Claimed per case (in hours) (b) = (a) / 60	Hours Claimed FY 2006-07 (c) = (b) * 4200
	F.3.6		
Clerk Typist	3.00	0.05	210.00
Senior Clerk Typist	23.00	0.38	1,596.00
Police Serv Rep	22.00	0.37	1,554.00
Mgmt Analyst II	45.00	0.75	3,150.00
Principal Clerk Police II	18.00	0.30	1,260.00
Police Officer II	18.00	0.30	1,260.00
Detective I	3.00	0.05	210.00
Detective II	56.00	0.93	3,906.00
Detective III	44.00	0.73	3,066.00
Sergeant I	122.00	2.03	8,526.00
Sergeant II	40.00	0.67	2,814.00
Lieutenant I	40.00	0.67	2,814.00
Lieutenant II	56.00	0.93	3,906.00
Captain I	27.00	0.45	1,890.00
Captain II	39.00	0.65	2,730.00
Captain III	34.00	0.57	2,394.00
		9.83	41,286.00

Audited Information

	Allowed Min per Case % of allow activ (d)	Allowed Hours per case (e) = (d) / 60	Allowed Hours FY 2006-07 (f) = (e) * 4200	Audit Adjustment (in hours) (g) = (f) - (c)
	F.3.3			
	3.00	0.05	210.00	-
	13.00	0.22	924.00	(672.00)
	11.00	0.18	756.00	(798.00)
	-	-	-	(3,150.00)
	-	-	-	(1,260.00)
	1.00	0.02	84.00	(1,176.00)
	3.00	0.05	210.00	-
	25.00	0.42	1,764.00	(2,142.00)
	43.00	0.72	3,024.00	(42.00)
	10.00	0.17	714.00	(7,812.00)
	36.00	0.60	2,520.00	(294.00)
	32.00	0.53	2,226.00	(588.00)
	55.00	0.92	3,864.00	(42.00)
	26.00	0.43	1,806.00	(84.00)
	40.00	0.67	2,814.00	84.00
	31.00	0.52	2,184.00	(210.00)
		5.50	23,100.00	(18,186.00)

F.1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Years 2003-04 Through 2007-08
Audit ID # S09-MCC-047
F.3.PS
 Allowable Hours for FY 2006-07

Interrogations

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2006-07
	(a)	(b) = (a) / 60	(c) = (b) * 4200
	F.3.7		
Detective I	40.74	0.68	2,851.80
Detective II	45.00	0.75	3,150.00
Detective III	37.92	0.63	2,654.40
Sergeant I	43.32	0.72	3,032.40
Sergeant II	50.22	0.84	3,515.40
Lieutenant I	60.72	1.01	4,250.40
PO II Wit interview			1,722.00
PO II Subject interview			4,562.25
		4.63	25,738.65

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2006-07	Audit Adjustment (in hours) (g) = (f) - (c)
	(d)	(e) = (d) / 60	(f) = (e) * 4200	
F.3.3	-	-	-	(2,851.80)
F.3.3	5.00	0.08	336.00	(2,814.00)
F.3.3	13.00	0.22	924.00	(1,730.40)
F.3.3	5.00	0.08	336.00	(2,696.40)
F.3.3	6.00	0.10	420.00	(3,095.40)
F.3.3	5.00	0.08	336.00	(3,914.40)
			-	(1,722.00)
			-	(4,562.25)
		0.56	2,352.00	(23,386.65)

F.1.1

F.1.PS

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Years 2003-04 Through 2007-08
 Audit ID # S09-MCC-047

Allowable Hours for FY 2007-08

F.3.PS

Administrative Activities

Claimed Information

	Average Time Claimed (minutes) (a)	Time Claimed per case (in hours) (b) = (a) / 60	Hours Claimed FY 2007-08 (c) = (b) * 6126
	F.3.5		
Clerk Typist	7.00	0.12	735.12
Senior Clerk Typist	8.00	0.13	796.38
Principal Clerk Police II	11.00	0.18	1,102.68
Detective II	13.00	0.22	1,347.72
Detective III	19.00	0.32	1,960.32
Sergeant I	3.00	0.05	306.30
Sergeant II	7.00	0.12	735.12
Lieutenant I	1.00	0.02	122.52
Lieutenant II	2.00	0.03	183.78
Captain II	7.00	0.12	735.12
Captain III	10.00	0.17	1,041.42
		1.47	9,066.47

Audited Information

	Allowed Min per Case % of allow activ (d)	Allowed Hours per case (e) = (d) / 60	Allowed Hours FY 2007-08 (f) = (e) * 6126	Audit Adjustment (in hours) (g) = (f) - (c)
	F.3.3			
	1.00	0.02	122.52	(612.60)
	3.00	0.05	306.30	(490.08)
	1.00	0.02	122.52	(980.16)
	-	-	-	(1,347.72)
	-	-	-	(1,960.32)
	-	-	-	(306.30)
	-	-	-	(735.12)
	1.00	0.02	122.52	-
	-	-	-	(183.78)
	-	-	-	(735.12)
	-	-	-	(1,041.42)
		0.11	673.86	(8,392.62)

F.1.1

Adverse Comment

Claimed Information

	Average Time Claimed (minutes) (a)	Time Claimed per case (in hours) (b) = (a) / 60	Hours Claimed FY 2007-08 (c) = (b) * 6126
	F.3.6		
Clerk Typist	3.00	0.05	306.30
Senior Clerk Typist	23.00	0.38	2,327.88
Police Serv Rep	22.00	0.37	2,266.62
Mgmt Analyst II	45.00	0.75	4,594.50
Principal Clerk Police II	18.00	0.30	1,837.80
Police Officer II	18.00	0.30	1,837.80
Detective I	3.00	0.05	306.30
Detective II	56.00	0.93	5,697.18
Detective III	44.00	0.73	4,471.98
Sergeant I	122.00	2.03	12,435.78
Sergeant II	40.00	0.67	4,104.42
Lieutenant I	40.00	0.67	4,104.42
Lieutenant II	56.00	0.93	5,697.18
Captain I	27.00	0.45	2,756.70
Captain II	39.00	0.65	3,981.90
Captain III	34.00	0.57	3,491.82
		9.83	60,218.58

Audited Information

	Allowed Min per Case % of allow activ (d)	Allowed Hours per case (e) = (d) / 60	Allowed Hours FY 2007-08 (f) = (e) * 6126	Audit Adjustment (in hours) (g) = (f) - (c)
	F.3.3			
	3.00	0.05	306.30	-
	13.00	0.22	1,347.72	(980.16)
	11.00	0.18	1,102.68	(1,163.94)
	-	-	-	(4,594.50)
	-	-	-	(1,837.80)
	1.00	0.02	122.52	(1,715.28)
	3.00	0.05	306.30	-
	25.00	0.42	2,572.92	(3,124.26)
	43.00	0.72	4,410.72	(61.26)
	10.00	0.17	1,041.42	(11,394.36)
	36.00	0.60	3,675.60	(428.82)
	32.00	0.53	3,246.78	(857.64)
	55.00	0.92	5,635.92	(61.26)
	26.00	0.43	2,634.18	(122.52)
	40.00	0.67	4,104.42	122.52
	31.00	0.52	3,185.52	(306.30)
		5.50	33,693.00	(26,525.58)


F.1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Years 2003-04 Through 2007-08
 Audit ID # S09-MCC-047







Allowable Hours for FY 2007-08

Interrogations

Claimed Information

	Average Time Claimed (minutes)	Time Claimed per case (in hours)	Hours Claimed FY 2007-08
	(a)	(b) = (a) / 60	(c) = (b) * 6126
	 F.3.7		
Detective I	40.74	0.68	4,159.55
Detective II	45.00	0.75	4,594.50
Detective III	37.92	0.63	3,871.63
Sergeant I	43.32	0.72	4,422.97
Sergeant II	50.22	0.84	5,127.46
Lieutenant I	60.72	1.01	6,199.51
PO II Wit interview			2,511.66
PO II Subject interview			7,526.75
		4.63	38,414.04

Audited Information

	Allowed Min per Case % of allow activ	Allowed Hours per case	Allowed Hours FY 2007-08	Audit Adjustment (in hours) (g) = (f) - (c)
	(d)	(e) = (d) / 60	(f) = (e) * 6126	
 F.3.3	-	-	-	(4,159.55)
 F.3.3	5.00	0.08	490.08	(4,104.42)
 F.3.3	13.00	0.22	1,347.72	(2,523.91)
 F.3.3	5.00	0.08	490.08	(3,932.89)
 F.3.3	6.00	0.10	612.60	(4,514.86)
 F.3.3	5.00	0.08	490.08	(5,709.43)
			-	(2,511.66)
			-	(7,526.75)
		0.56	3,430.56	(34,983.48)

 **F.1.1**

 **F.1.PS**

W/p F.4.1

City of Los Angeles

Legislatively Mandated Peace Officers Procedural Bill of Rights Program

FY 2003-04 thour FY 2007-08

Audit ID # S09-MCC-047

Review of Productive Hourly Rates

EX3

City Data		Auditor's Analysis				
Employee Classification	PHR Claimed	Bi-weekly Salary	Annual Salary	Productive Hours	Audited PHR	Audit Adjustment
(a)		(b)	(c) = (b) * 26.1	(d)	(e) = (c) / (d)	(f) = (e) - (a)
FY 2003-04						
Lieutenant I	64.43	4,001.44	104,437.58	1,621	64.43	(0.00)
Lieutenant II	68.16	4,233.12	110,484.43	1,621	68.16	(0.00)
Captain I	73.33	4,554.27	118,866.45	1,621	73.33	(0.00)
Captain II	79.37	4,929.60	128,662.56	1,621	79.37	0.00
Captain III	85.07	5,283.76	137,906.14	1,621	85.07	0.00
Sergeant I	54.67	3,395.69	88,627.51	1,621	54.67	0.00
Sergeant II	58.10	3,608.34	94,177.67	1,621	58.10	(0.00)
Detective I	51.23	3,181.54	83,038.19	1,621	51.23	(0.00)
Detective II	54.98	3,414.96	89,130.46	1,621	54.98	0.00
Detective III	60.87	3,780.36	98,667.40	1,621	60.87	(0.00)
PO II	42.23	2,622.84	68,456.12	1,621	42.23	0.00
Clerk Typist	23.73	1,455.67	37,992.99	1,601	23.73	0.00
Senior Clerk Typist	29.26	1,794.56	46,838.02	1,601	29.26	(0.00)
Police Serv Represent II	28.05 *	2,145.62	56,000.68	1,601	34.98	6.93 *
Mgmt Analyst II	43.35	2,659.45	69,411.65	1,601	43.36	0.01
Principal Clerk Pol II	35.84	2,198.19	57,372.76	1,601	35.84	(0.00)
FY 2004-05						
Lieutenant I	66.91	4,158.99	108,133.74	1,616	66.91	0.00
Lieutenant II	70.40	4,375.32	113,758.32	1,616	70.40	(0.01)
Captain I	75.38	4,685.15	121,813.90	1,616	75.38	(0.00)
Captain II	83.34	5,179.98	134,679.48	1,616	83.34	0.00
Captain III	89.41	5,557.25	144,488.50	1,616	89.41	0.00
Sergeant I	57.01	3,543.33	92,126.58	1,616	57.01	(0.00)
Sergeant II	60.12	3,736.36	97,145.36	1,616	60.11	(0.01)
Detective I	53.37	3,316.97	86,241.22	1,616	53.37	(0.00)
Detective II	56.87	3,534.86	91,906.36	1,616	56.87	0.00
Detective III	62.76	3,900.76	101,419.76	1,616	62.76	(0.00)
PO II	43.46	2,701.15	70,229.90	1,616	43.46	(0.00)

City of Los Angeles

Legislatively Mandated Peace Officers Procedural Bill of Rights Program

FY 2003-04 thour FY 2007-08

Audit ID # S09-MCC-047

Review of Productive Hourly Rates

EX3

F.4.PS

F.4.PS

City Data		Auditor's Analysis				
Employee Classification	PHR Claimed	Bi-weekly Salary	Annual Salary	Productive Hours	Audited PHR	Audit Adjustment
	(a)	(b)	(c) = (b) * 26.1	(d)	(e) = (c) / (d)	(f) = (e) - (a)
Clerk Typist	23.93	1,489.05	38,715.30	1,618	23.93	(0.00)
Senior Clerk Typist	29.47	1,833.76	47,677.76	1,618	29.47	(0.00)
Police Serv Represent II	35.51	2,210.08	57,462.08	1,618	35.51	0.00
Mgmt Analyst II	44.00	2,738.39	71,198.14	1,618	44.00	0.00
Principal Clerk Pol II	36.08	2,245.09	58,372.34	1,618	36.08	(0.00)
FY 2005-06						
Lieutenant I	69.33	4,297.65	112,168.67	1,618	69.33	(0.00)
Lieutenant II	73.48	4,555.47	118,897.77	1,618	73.48	0.00
Captain I	77.98	4,834.17	126,171.84	1,618	77.98	0.00
Captain II	87.88	5,447.89	142,189.93	1,618	87.88	0.00
Captain III	93.85	5,817.91	151,847.45	1,618	93.85	(0.00)
Sergeant I	59.36	3,680.02	96,048.52	1,618	59.36	0.00
Sergeant II	62.67	3,885.11	101,401.37	1,618	62.67	0.00
Detective I	55.42	3,435.81	89,674.64	1,618	55.42	0.00
Detective II	59.28	3,674.61	95,907.32	1,618	59.28	(0.00)
Detective III	65.29	4,047.23	105,632.70	1,618	65.29	(0.00)
PO II	45.69	2,832.39	73,925.38	1,618	45.69	(0.00)
Clerk Typist	23.21	1,464.58	38,225.54	1,647	23.21	(0.00)
Senior Clerk Typist	28.73	1,812.97	47,318.52	1,647	28.73	0.00
Police Serv Represent II	27.05 *	2,164.46 F.4.9	56,492.41	1,647	34.30	7.25 *
Mgmt Analyst II	42.95	2,710.20	70,736.22	1,647	42.95	(0.00)
Principal Clerk Pol II	35.46	2,237.82	58,407.10	1,647	35.46	0.00
FY 2006-07						
Lieutenant I	70.61	4,469.56 F.4.10	116,655.52	652 F.4.5	70.61	0.00
Lieutenant II	74.85	4,737.69	123,653.71	1,652	74.85	0.00
Captain I	79.43	5,027.54	131,218.79	1,652	79.43	0.00
Captain II	89.51	5,665.81	147,877.64	1,652	89.51	0.00
Captain III	95.59	6,050.63	157,921.44	1,652	95.59	0.00
Sergeant I	60.47	3,827.22	99,890.44	1,652	60.47	(0.00)
Sergeant II	63.84	4,040.51	105,457.31	1,652	63.84	(0.00)

City of Los Angeles

Legislatively Mandated Peace Officers Procedural Bill of Rights Program

FY 2003-04 thour FY 2007-08

Audit ID # S09-MCC-047

Review of Productive Hourly Rates

EX3

F.4.PS

F.4.PS

City Data		Auditor's Analysis				
Employee Classification	PHR Claimed	Bi-weekly Salary	Annual Salary	Productive Hours	Audited PHR	Audit Adjustment
	(a)	(b)	(c) = (b) * 26.1	(d)	(e) = (c) / (d)	(f) = (e) - (a)
Detective I	56.45	3,573.24	93,261.56	1,652	56.45	0.00
Detective II	60.38	3,821.59	99,743.50	1,652	60.38	(0.00)
Detective III	66.50	4,209.12	109,858.03	1,652	66.50	0.00
PO II	46.54	2,945.69	76,882.51	1,652	46.54	(0.00)
Clerk Typist	22.91	1,493.31	38,975.39	1,701	22.91	0.00
Senior Clerk Typist	28.33	1,846.31	48,188.69	1,701	28.33	(0.00)
Police Serv Represent II	33.99	2,215.06	57,813.07	1,701	33.99	(0.00)
Mgmt Analyst II	41.99	2,736.75	71,429.18	1,701	41.99	0.00
Principal Clerk Pol II	34.50	2,248.30	58,680.63	1,701	34.50	(0.00)
FY 2007-08						
Lieutenant I	73.53	4,588.68	119,764.55	1,665	71.93	(1.60)
Lieutenant II	74.90	4,863.28	126,931.61	1,665	76.24	1.34
Captain I	73.00	5,034.74	131,406.71	1,665	78.92	5.92
Captain II	82.37	5,680.72	148,266.79	1,665	89.05	6.68
Captain III	86.45	5,962.29	155,615.77	1,665	93.46	7.01
Sergeant I	62.48	3,912.59	102,118.60	1,665	61.33	(1.15)
Sergeant II	67.04	4,154.15	108,423.32	1,665	65.12	(1.92)
Detective I	57.40	3,670.06	95,788.57	1,665	57.53	0.13
Detective II	61.65	3,948.96	103,067.86	1,665	61.90	0.25
Detective III	64.73	4,343.10	113,354.91	1,665	68.08	3.35
PO II	53.65	3,059.93	79,864.17	1,665	47.97	(5.68)
Clerk Typist	22.86	1,576.45	41,145.35	1,663	24.74	1.88
Senior Clerk Typist	28.66	1,976.56	51,588.22	1,663	31.02	2.36
Police Serv Represent II	34.63	2,388.15	62,330.72	1,663	37.48	2.85
Mgmt Analyst II	41.42	2,856.55	74,555.96	1,663	44.83	3.41
Principal Clerk Pol II	34.62	2,387.31	62,308.79	1,663	37.47	2.85

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 FY 2003-04
 Audit ID # S09-MCC-047
 Review of Productive Hourly Rates

Employee Classification	PHR Claimed
	(a)

F.4.PS		Auditor's Analysis			
Bi-weekly Salary	Annual Salary	Productive Hours	Audited PHR	Audit Adjustment	
(b)	(c) = (b) * 26.1	(d)	(e) = (c) / (d)	(f) = (e) - (a)	

Lieutenant I	64.43	4,001.44	104,437.58	1,621	64.43	(0.00)
Lieutenant II	68.16	4,233.12	110,484.43	1,621	68.16	(0.00)
Captain I	73.33	4,554.27	118,866.45	1,621	73.33	(0.00)
Captain II	79.37	4,929.60	128,662.56	1,621	79.37	0.00
Captain III	85.07	5,283.76	137,906.14	1,621	85.07	0.00
Sergeant I	54.67	3,395.69	88,627.51	1,621	54.67	0.00
Sergeant II	58.10	3,608.34	94,177.67	1,621	58.10	(0.00)
Detective I	51.23	3,181.54	83,038.19	1,621	51.23	(0.00)
Detective II	54.98	3,414.96	89,130.46	1,621	54.98	0.00
Detective III	60.87	3,780.36	98,667.40	1,621	60.87	(0.00)
PO II	42.23	2,622.84	68,456.12	1,621	42.23	0.00
Clerk Typist	^ 23.73	1,455.67	37,992.99	1,601	23.73	0.00
Senior Clerk Typist	^ 29.26	1,794.56	46,838.02	1,601	29.26	(0.00)
Police Serv Represent I	^ 28.05 *	2,145.62 F.4.7	56,000.68	1,601	34.98	6.93 *
Mgmt Analyst II	^ 43.35	2,659.45	69,411.65	1,601	43.36	0.01
Principal Clerk Pol II	^ 35.84	2,198.19	57,372.76	1,601	35.84	(0.00)


F.1.PS
F.1.1
H1.1

* The city accidentally used the rate for PSR I instead of II in this FY. The auditors will use the correct rate.

^ In this FY, the city claimed civilian employees' salaries, benefits, and related indirect costs under the component of the services and supplies... The auditor will analyze these costs under the services and supplies portion of this audit.

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 FY 2004-05
 Audit ID # S09-MCC-047
 Review of Productive Hourly Rates

Employee Classification	PHR Claimed
	(a)

 F.4.PS	Auditor's Analysis			
Bi-weekly Salary	Annual Salary	Productive Hours	Audited PHR	Audit Adjustment
(b)	(c) = (b) * 26	(d)	(e) = (c) / (d)	(f) = (e) - (a)

 F.4.8 F.4.3

Lieutenant I	66.91	4,158.99	108,133.74	1,616	66.91	0.00
Lieutenant II	70.40	4,375.32	113,758.32	1,616	70.40	(0.01)
Captain I	75.38	4,685.15	121,813.90	1,616	75.38	(0.00)
Captain II	83.34	5,179.98	134,679.48	1,616	83.34	0.00
Captain III	89.41	5,557.25	144,488.50	1,616	89.41	0.00
Sergeant I	57.01	3,543.33	92,126.58	1,616	57.01	(0.00)
Sergeant II	60.12	3,736.36	97,145.36	1,616	60.11	(0.01)
Detective I	53.37	3,316.97	86,241.22	1,616	53.37	(0.00)
Detective II	56.87	3,534.86	91,906.36	1,616	56.87	0.00
Detective III	62.76	3,900.76	101,419.76	1,616	62.76	(0.00)
PO II	43.46	2,701.15	70,229.90	1,616	43.46	(0.00)
Clerk Typist	23.93	1,489.05	38,715.30	1,618	23.93	(0.00)
Senior Clerk Typist	29.47	1,833.76	47,677.76	1,618	29.47	(0.00)
Police Serv Represent II	35.51	2,210.08	57,462.08	1,618	35.51	0.00
Mgmt Analyst II	44.00	2,738.39	71,198.14	1,618	44.00	0.00
Principal Clerk Pol II	36.08	2,245.09	58,372.34	1,618	36.08	(0.00)

 F.1.PS F.1.1

City of Los Angeles




Legislatively Mandated Peace Officers Procedural Bill of Rights Program

FY 2005-06

Audit ID # S09-MCC-047

Review of Productive Hourly Rates

Employee Classification	PHR Claimed (a)
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		 F.4.PS	Auditor's Analysis		
Bi-weekly Salary (b)	Annual Salary (c) = (b) * 26.1	Productive Hours (d)	Audited PHR (e) = ('c) / (d)	Audit Adjustment (f) = (e) - (a)	
 F.4.9			 F.4.4		



Lieutenant I	69.33	4,297.65	112,168.67	1,618	69.33	(0.00)
Lieutenant II	73.48	4,555.47	118,897.77	1,618	73.48	0.00
Captain I	77.98	4,834.17	126,171.84	1,618	77.98	0.00
Captain II	87.88	5,447.89	142,189.93	1,618	87.88	0.00
Captain III	93.85	5,817.91	151,847.45	1,618	93.85	(0.00)
Sergeant I	59.36	3,680.02	96,048.52	1,618	59.36	0.00
Sergeant II	62.67	3,885.11	101,401.37	1,618	62.67	0.00
Detective I	55.42	3,435.81	89,674.64	1,618	55.42	0.00
Detective II	59.28	3,674.61	95,907.32	1,618	59.28	(0.00)
Detective III	65.29	4,047.23	105,632.70	1,618	65.29	(0.00)
PO II	45.69	2,832.39	73,925.38	1,618	45.69	(0.00)
Clerk Typist	23.21	1,464.58	38,225.54	1,647	23.21	(0.00)
Senior Clerk Typist	28.73	1,812.97	47,318.52	1,647	28.73	0.00
Police Serv Represent II	27.05 *	2,164.46 F.4.9	56,492.41	1,647	34.30	7.25 *
Mgmt Analyst II	42.95	2,710.20	70,736.22	1,647	42.95	(0.00)
Principal Clerk Pol II	35.46	2,237.82	58,407.10	1,647	35.46	0.00



F.1.PS

F.1.1

* The city accidentally used the rate for PSR I instead of II in this FY. The auditors will use the correct rate.

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Productive Hourly Rates
 FY 2006-07
 Audit ID # S09-MCC-047

Employee Classification	PHR Claimed (a)	Auditor's Analysis				
		Bi-weekly Salary (b)	Annual Salary (c) = (b) * 26.1	Productive Hours (d)	Audited PHR (e) = (c) / (d)	Audit Adjustment (f) = (e) - (a)
Lieutenant I	70.61	 F.4.10 59.56	116,655.52	 F.4.5 52	70.61	0.00
Lieutenant II	74.85	4,737.69	123,653.71	1,652	74.85	0.00
Captain I	79.43	5,027.54	131,218.79	1,652	79.43	0.00
Captain II	89.51	5,665.81	147,877.64	1,652	89.51	0.00
Captain III	95.59	6,050.63	157,921.44	1,652	95.59	0.00
Sergeant I	60.47	3,827.22	99,890.44	1,652	60.47	(0.00)
Sergeant II	63.84	4,040.51	105,457.31	1,652	63.84	(0.00)
Detective I	56.45	3,573.24	93,261.56	1,652	56.45	0.00
Detective II	60.38	3,821.59	99,743.50	1,652	60.38	(0.00)
Detective III	66.50	4,209.12	109,858.03	1,652	66.50	0.00
PO II	46.54	2,945.69	76,882.51	1,652	46.54	(0.00)
Clerk Typist	22.91	1,493.31	38,975.39	1,701	22.91	0.00
Senior Clerk Typist	28.33	1,846.31	48,188.69	1,701	28.33	(0.00)
Police Serv Represent II	33.99	2,215.06	57,813.07	1,701	33.99	(0.00)
Mgmt Analyst II	41.99	2,736.75	71,429.18	1,701	41.99	0.00
Principal Clerk Pol II	34.50	2,248.30	58,680.63	1,701	34.50	(0.00)

 F.1.PS
 F.1.1

Employee Classification	PHR Claimed
	(a)

F.4.PS Auditor's Analysis				
Bi-weekly Salary	Annual Salary	Productive Hours	Audited PHR	Audit Adjustment
(b)	(c) = (b) * 26.1	(d)	(e) = (c) / (d)	(f) = (e) - (a)

		F.4.11	F.4.6		
Lieutenant I	73.53	4,588.68	119,764.55	1,665	71.93 (1.60)
Lieutenant II	74.90	4,863.28	126,931.61	1,665	76.24 1.34
Captain I	73.00	5,034.74	131,406.71	1,665	78.92 5.92
Captain II	82.37	5,680.72	148,266.79	1,665	89.05 6.68
Captain III	86.45	5,962.29	155,615.77	1,665	93.46 7.01
Sergeant I	62.48	3,912.59	102,118.60	1,665	61.33 (1.15)
Sergeant II	67.04	4,154.15	108,423.32	1,665	65.12 (1.92)
Detective I	57.40	3,670.06	95,788.57	1,665	57.53 0.13
Detective II	61.65	3,948.96	103,067.86	1,665	61.90 0.25
Detective III	64.73	4,343.10	113,354.91	1,665	68.08 3.35
PO II	53.65	3,059.93	79,864.17	1,665	47.97 (5.68)
Clerk Typist	22.86	1,576.45	41,145.35	1,663	24.74 1.88
Senior Clerk Typist	28.66	1,976.56	51,588.22	1,663	31.02 2.36
Police Serv Represent II	34.63	2,388.15	62,330.72	1,663	37.48 2.85
Mgmt Analyst II	41.42	2,856.55	74,555.96	1,663	44.83 3.41
Principal Clerk Pol II	34.62	2,387.31	62,308.79	1,663	37.47 2.85

F.1.PS
F.1.1

The consultants used 1,800 productive hours to calculate PHR in this fiscal year. However, the city provided their own calculation of productive hours in this year as well as all preceding years in the audit period. The city advised that the consultants made a mistake and did not use their productive hours that were provided to them.

In addition, the actual average salary information for each classification (provided by the city in the report) did not match with consultant's calculation. The city provided the auditors a report with the average salary information (excluding any bonuses) and the auditors recalculated average annual salary information for each class based on the city report. The city used the same report for all fiscal years under the audit period and used the average salary amounts per classification (base amounts, excluding bonuses). It appears that the consultant actually used an average of all steps of salary increases including all the bonuses. However, the city advised the auditors that the base salary average excluding any bonuses should be used in the calculation of the rates.

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Years 2003-04 Through 2007-08
Audit ID # S09-MCC-047
 Summary of Benefit Costs and Adjustments

G1.PS

Purpose: To summarize claimed salary costs and audit adjustments that resulted from auditor's review.

Cost Components	Benefits Claimed	Benefits Allowed	Adjustment I Hour-related	Adjustment II PHR-related
2003-04	G1.1		Finding 1 (Hours)	Finding 2 (PHR)
Administrative Activities	115,709	2,174	(113,535)	
Interrogations	559,718	55,877	(503,841)	
Adverse Comment	843,946	573,951	(269,995)	
Subtotal	\$ 1,519,373	\$ 632,002	\$ (887,371)	\$ - E1.1
2004-05	G1.1			
Administrative Activities	132,269	6,197	(126,072)	
Interrogations	543,963	53,873	(490,090)	
Adverse Comment	923,017	576,820	(346,197)	
Subtotal	\$ 1,599,249	\$ 636,890	\$ (962,359)	\$ - E1.1
2005-06	G1.1			
Administrative Activities	158,647	7,260	(151,387)	
Interrogations	655,676	64,713	(590,963)	
Adverse Comment	1,101,861	694,012	(410,222)	2,373 •
Subtotal	\$ 1,916,184	\$ 765,985	\$ (1,152,572)	\$ 2,373 E1.1
2006-07	G1.1			
Administrative Activities	161,820	7,231	(154,589)	
Interrogations	673,791	65,050	(608,741)	
Adverse Comment	1,131,135	712,106	(419,029)	
Subtotal	\$ 1,966,746	\$ 784,387	\$ (1,182,359)	E1.1
2007-08	G1.1			
Administrative Activities	247,501	11,331	(236,620)	450
Interrogations	1,140,553	108,212	(1,033,347)	1,006
Adverse Comment	1,796,797	1,147,785	(687,619)	38,607
Subtotal	\$ 3,184,851	\$ 1,267,328	\$ (1,957,586)	\$ 40,063 E1.1
Total	\$ 10,186,403	\$ 4,086,592	\$ (6,142,247)	\$ 42,436
	EX1		EX1	EX3

- The city accidentally used the Productive Hourly rate for PSR I instead of II in this FY. The auditors have used the correct rate. The adjustment for understated PHR is 6,161 (7.25 difference in rate * allowed hours 849.78). This finding will be included with the misstated PHR finding (combined with FY 2007-08 and 2003-04) Resulting from PHR finding, Benefits were understated as follows:
 6,161 understated salaries * 38.51% ben rate for civilians = 2,373 understated benefits.

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2003-04
Audit ID # S09-MCC-047
 Summary of Benefit Costs and Adjustments

G.2.PS		City's Data		
Activities	Classification	Salaries Claimed	Ben Rate Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2003-04

Administrative Activities

Sworn personnel	\$ 370,032	31.27%	\$ 115,709.0
Civilian personnel	^ -	25.48%	-
Subtotal	\$ 370,032		\$ 115,709

Interrogations

Sworn personnel	\$ 1,789,950	31.27%	\$ 559,717.5
Civilian personnel	^ -	25.48%	-
Subtotal	\$ 1,789,950		\$ 559,718

Adverse Comment

Sworn personnel	\$ 2,698,900	31.27%	\$ 843,946.0
Civilian personnel	^ -	25.48%	-
Subtotal	\$ 2,698,900		\$ 843,946

Total
\$ 4,858,882

B.2.1
\$ 1,519,373

Auditors' Analysis			
Allowed Salaries	Allowed Benefit Rate	Allowed Benefit Costs	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.1.1

G.2.1

\$ 6,951	31.27%	\$ 2,173.58	\$ (113,535.4)
^ -		-	-
\$ 6,951		\$ 2,174	\$ (113,535)

\$ 178,691	31.27%	\$ 55,876.68	\$ (503,840.9)
^ -		-	-
\$ 178,691		\$ 55,877	\$ (503,841)

\$ 1,835,467	31.27%	\$ 573,950.5	\$ (269,995.5)
^ -		-	-
\$ 1,835,467		\$ 573,951	\$ (269,995)

\$ 2,021,109
\$ 632,002
\$ (887,371)

G.1.1

^ In this FY, the city claimed civilian employees' salaries, benefits, and related indirect costs under the component of the services and supplies...
 The auditor will analyze these costs under the services and supplies portion of this audit.

wlp G.1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2004-05
Audit ID # S09-MCC-047
 Summary of Benefit Costs and Adjustments

G.2.PS		City's Data		
Activities	Classification	Salaries Claimed	Ben Rate Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2004-05

Administrative Activities

Sworn personnel	\$ 307,778	36.41%	\$ 112,062.0
Civilian personnel	56,953	35.48%	20,206.92
Subtotal	\$ 364,731		\$ 132,269

Interrogations

Sworn personnel	\$ 1,493,993	36.41%	\$ 543,963.1
Civilian personnel	-	35.48%	-
Subtotal	\$ 1,493,993		\$ 543,963

Adverse Comment

Sworn personnel	\$ 2,243,352	36.41%	\$ 816,804.5
Civilian personnel	299,358	35.48%	106,212.22
Subtotal	\$ 2,542,710		\$ 923,017

Total	\$ 4,401,434		\$ 1,599,249
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Auditors' Analysis			
Allowed Salaries	Allowed Benefit Rate	Allowed Benefit Costs	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.1.1

G2.2

\$ 5,776	36.41%	\$ 2,103.04	\$ (109,958.9)
11,540.00	35.48%	4,094.39	(16,113.00)
\$ 17,316		\$ 6,197	\$ (126,072)

\$ 147,963	36.41%	\$ 53,873.33	\$ (490,089.7)
-	35.48%	-	-
\$ 147,963		\$ 53,873	\$ (490,090)

\$ 1,525,053	36.41%	\$ 555,271.80	\$ (261,532.7)
60,733.00	35.48%	21,548.07	(84,664.15)
\$ 1,585,786		\$ 576,820	\$ (346,197)

\$ 1,751,065		\$ 636,890	\$ (962,359)
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G1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2005-06
 Audit ID # S09-MCC-047
 Summary of Benefit Costs and Adjustments

G.2.PS City's Data				
Activities	Classification	Salaries Claimed	Ben Rate Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2005-06

Administrative Activities				
	Sworn personnel	\$ 351,781	38.43%	\$ 135,189.4
	Civilian personnel	60,914	38.51%	23,457.98
Subtotal		\$ 412,695		\$ 158,647
Interrogations				
	Sworn personnel	\$ 1,706,155	38.43%	\$ 655,675.6
	Civilian personnel	-	38.51%	-
Subtotal		\$ 1,706,155		\$ 655,676
Adverse Comment				
	Sworn personnel	\$ 2,559,985	38.43%	\$ 983,802.2
	Civilian personnel	306,567	38.51%	118,058.95
Subtotal		\$ 2,866,552		\$ 1,101,861
Total		\$ 4,985,402		\$ 1,916,184

G.1.PS Auditors' Analysis			
Allowed Salaries	Allowed Benefit Rate	Allowed Benefit Costs	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.1.1 G.23

\$ 6,546	38.43%	\$ 2,515.23	\$ (132,674.2)
12,322	38.51%	4,745.20	(18,712.78)
\$ 18,868		\$ 7,260	\$ (151,387)
\$ 168,391	38.43%	\$ 64,712.66	\$ (590,962.9)
-	38.51%	-	-
\$ 168,391		\$ 64,713	\$ (590,963)
\$ 1,741,312	38.43%	\$ 669,186.20	\$ (314,616.0)
64,466	38.51%	24,825.86	(93,233.10) •
\$ 1,805,778		\$ 694,012	\$ (407,849)
\$ 1,993,037		\$ 765,985	\$ (1,150,199)

2373

G.1.1

- The city accidentally used the Productive Hourly rate for PSR I instead of II in this FY. The auditors have used the correct rate. The adjustment for understated PHR is 6,161 (7.25 difference in rate * allowed hours 849.78). This finding will be included with the misstated PHR finding (combined with FY 2007-08 and 2003-04) Resulting from PHR finding, Benefits were understated as follows:
 6,161 understated salaries * 38.51% ben rate for civilians = 2,373 understated benefits.

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2006-07
Audit ID # S09-MCC-047
 Summary of Benefit Costs and Adjustments

G.2.PS		City's Data		
Activities	Classification	Salaries Claimed	Ben Rate Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2006-07

Administrative Activities

Sworn personnel	\$ 318,768	43.58%	\$ 138,920.4
Civilian personnel	53,097	43.13%	22,899.67
Subtotal	\$ 371,865		\$ 161,820

Interrogations

Sworn personnel	\$ 1,546,102	43.58%	\$ 673,791.3
Civilian personnel	-	43.13%	-
Subtotal	\$ 1,546,102		\$ 673,791

Adverse Comment

Sworn personnel	\$ 2,319,829	43.58%	\$ 1,010,981
Civilian personnel	278,585	43.13%	120,153.71
Subtotal	\$ 2,598,414		\$ 1,131,135

Total	\$ 4,516,381		\$ 1,966,746
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Auditors' Analysis			
Allowed Salaries	Allowed Benefit Rate	Allowed Benefit Costs	Adjustment I Hour-related
(d)	(e)	(f)=(e)*(d)	(g)=(f)-(c)

F.1.1

G2.4

\$ 5,931	43.58%	\$ 2,585.00	\$ (136,335.00)
10,772	43.13%	4,646.00	(18,253.67)
\$ 16,703		\$ 7,231	\$ (154,589)

\$ 149,266	43.58%	\$ 65,050.12	\$ (608,741.13)
-	43.13%	-	-
\$ 149,266		\$ 65,050	\$ (608,741)

\$ 1,577,921	43.58%	\$ 687,657.97	\$ (323,323.51)
56,685	43.13%	24,448.24	(95,705.47)
\$ 1,634,606		\$ 712,106	\$ (419,029)

G1.1

\$ 1,800,575		\$ 784,387	\$ (1,182,359)
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City of Los Angeles
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Fiscal Year 2007-08
Audit ID # S09-MCC-047
Summary of Benefit Costs and Adjustments

City's Data				
Activities	Classification	Salaries Claimed	Ben Rate Claimed	Benefit Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2007-08

Administrative Activities				
	Sworn personnel	\$ 451,755	47.61%	\$ 215,080.6
	Civilian personnel	77,804	41.67%	32,420.93
Subtotal		\$ 529,559		\$ 247,501

Interrogations				
	Sworn personnel	\$ 2,395,617	47.61%	\$ 1,140,553
	Civilian personnel	-	41.67%	-
Subtotal		\$ 2,395,617		\$ 1,140,553

Adverse Comment				
	Sworn personnel	\$ 3,368,643	47.60%	\$ 1,603,474
	Civilian personnel	406,141	47.60%	193,323.12
Subtotal		\$ 3,774,784		\$ 1,796,797

Total		\$ 6,699,960		\$ 3,184,851
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Auditors' Analysis						
Adjusted Salaries after hours adjustment	Allowed Salaries after PHR adjustment	Allowed Benefit Rate	Adjusted Benefits after hours adjustment	Allowed Benefits (both hours and PHR adjustment)	Adjustment I Hour-related	Adjustment II PHR-related
(d)	(e)	(f)	(g)=(d)*(f)	(h)=(e)*(f)	(i)=(g)-(c)	(j)=(h)-(g)

F.1.1 F.1.1 G25

\$ 9,009.00	\$ 8,813.00	47.61%	\$ 4,289.00	\$ 4,195.87	\$ (210,791.56)	\$ (93.00)
15,821.00	17,123.00	41.67%	6,592.31	7,135.15	(25,828.62)	542.84
\$ 24,830	\$ 25,936		\$ 10,881	\$ 11,331	\$ (236,620)	\$ 450

\$ 225,176.00	\$ 227,289.00	47.61%	\$ 107,206.29	\$ 108,212.29	\$ (1,033,346.96)	\$ 1,006.00
-	-	41.67%	-	-	-	-
\$ 225,176	\$ 227,289		\$ 107,206	\$ 108,212	\$ (1,033,347)	\$ 1,006

\$ 2,246,392	\$ 2,320,600	47.60%	\$ 1,069,282.59	\$ 1,104,605.60	\$ (534,191.48)	\$ 35,323.01
83,814.00	90,712.00	47.60%	39,895.46	43,178.91	(153,427.65)	3,283.55
\$ 2,330,206	\$ 2,411,312		\$ 1,109,178	\$ 1,147,785	\$ (687,619)	\$ 38,607

\$ 2,580,212	\$ 2,664,537		\$ 1,227,265	\$ 1,267,328	\$ (1,957,586)	\$ 40,063
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G1.1

City of Los Angeles
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Fiscal Year 2003-04
Audit ID # S09-MCC-047
 Summary of Benefit Rates Analysis

Fiscal Year	Benefit Rate Claimed	Benefit Rate Adjustment	Allowed Benefit Rate	
FY 2003-04				
Sworn personnel	31.27%	0.00%	31.27%	
Civilian personnel	25.48%	0.00%	25.48%	
FY 2004-05				
Sworn personnel	36.41%	0.00%	36.41%	
Civilian personnel	35.48%	0.00%	35.48%	
FY 2005-06				
Sworn personnel	38.43%	0.00%	38.43%	
Civilian personnel	38.51%	0.00%	38.51%	
FY 2006-07				
Sworn personnel	43.58%	0.00%	43.58%	* City rounded to 43.6%
Civilian personnel	43.13%	0.00%	43.13%	* City rounded to 43.1%
FY 2007-08				
Sworn personnel	47.61%	0.00%	47.61%	*City rounded to 47.6
Civilian personnel	41.67%	0.00%	41.67%	*City rounded to 47.7

Tab 8

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 ~~underline and strikeout~~, 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 supervision 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 Submission, 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 *Skelly v. State Personnel Board* [citation omitted]. In fact, the first 312 pages of the test claim is devoted to litigation concerning *Skelly* 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.

1. 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 I, 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 officer 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 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 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 thereto, 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; *officer's time in response to adverse comment*; review of response 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"¹⁸

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.

¹⁸ See page 28, Claimant's Proposed Parameters and Guidelines, As Modified by Staff.

Tab 9

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 guidelines ⁵
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 guidelines ⁷
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 hearing ¹¹
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.4th 1342, 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:

- 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 appeal hearing 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.

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, subds. (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, subds. (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~~ 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		Standard				
Extended Cases	X	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		Standard				
Peace Officers	X	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 aActual 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~~ 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 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 no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the 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.~~

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 23, 2014, I served the:

SCO Comments on IRC

Peace Officer Procedural Bill of Rights (POBOR), 12-4499-I-02

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;

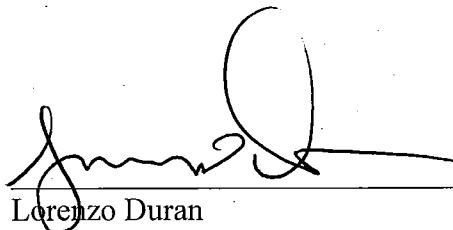
Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675

Fiscal Years: 2003-2004, 2004-2005, 2005-2006, 2006-07, and 2007-08

City of Los Angeles, 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 23, 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: 12/23/14

Claim Number: 12-4499-I-02

Matter: Peace Officer Bill of Rights (POBOR)

Claimant: City of Los Angeles

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.)

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COMMISSION ON STATE MANDATES

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March 23, 2016

Ms. Laura Luna
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City of Los Angeles
100 West First Street, Room 774
Los Angeles, CA 90012

Ms. Jill Kanemasu
State Controller's Office
Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Peace Officers Procedural Bill of Rights, 12-4499-I-02
Government Code Sections 3301, 3303, 3304, 3305, and 3306;
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; Statutes 1990, Chapter 675
Fiscal Years: 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008
City of Los Angeles, Claimant

Dear Ms. Luna and Ms. Kanemasu:

The draft proposed decision for the above-named matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the draft proposed decision by **April 13, 2016**. You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, May 27, 2016**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about May 13, 2016. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heather Halsey'.

Heather Halsey
Executive Director

ITEM __
INCORRECT REDUCTION CLAIM
DRAFT PROPOSED DECISION

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

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; Statutes 1990, Chapter 675

Peace Officers Procedural Bill of Rights

Fiscal Years 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008

12-4499-I-02

City of Los Angeles, Claimant

EXECUTIVE SUMMARY

Overview

This incorrect reduction claim (IRC) challenges the State Controller's (Controller's) finding that the City of Los Angeles (claimant) claimed unallowable costs of \$21,464,469 (of \$35,648,462 claimed) for the *Peace Officers Procedural Bill of Rights (POBOR)* program for fiscal years 2003 through 2008. The sole issue is whether the claimed activities under audit finding 1 (unallowable salaries, benefits, and related indirect costs) are eligible for reimbursement pursuant to the parameters and guidelines and the Commission's *POBOR* decisions.

POBOR provides a series of procedural rights and safeguards to peace officers employed by local governments who are subject to investigation or discipline. These procedural protections must be afforded to officers during interrogations that could lead to punitive action against them:

- The right to review and respond in writing to adverse comments entered in their personnel files;
- 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 adopted the *POBOR* Statement of Decision, CSM 4499, finding that while some activities were newly mandated, certain procedural requirements under POBOR were not new and were already required 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 because they did not impose a new program or higher level of service, or did not impose costs mandated by the state pursuant to Government Code section 17556(c), since they were mandated by federal law. The

Commission approved the activities required by POBOR that exceeded the requirements of pre-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 *POBOR* 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.

Statutes 2005, chapter 72, section 6 (AB 138) added section 3313 to the Government Code to direct the Commission to “review” the *POBOR* Statement of Decision to determine whether the test claim statutes 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 *POBOR* Statement of Decision on Reconsideration, 05-RL-4499-01, which 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 *POBOR* Statement of Decision, which found that the test claim statutes imposed a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on 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 *POBOR* Statement of Decision that the test claim statutes impose a partially 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:

- 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.)
- 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 *POBOR* Statement of Decision on Reconsideration, 05-RL-4499-01, adopted by the Commission, applies to costs incurred and claimed beginning July 1, 2006. The *POBOR* Parameters and Guidelines Amendment on Reconsideration also restates and further clarifies the activities that are reimbursable and those that are not.¹

Procedural History

The claimant filed the IRC on September 28, 2012.² The Controller filed late comments on the IRC on December 22, 2014.³ The claimant did not file a rebuttal to the Controller’s comments.

On March 22, 2016 Commission staff issued the Draft Proposed Decision.⁴

Commission Responsibilities

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced,

¹ Exhibit B, Controller’s Late Comments on the IRC, pages 186 et seq. (Final Staff Analysis on Requests to Amend the Parameters and Guidelines, Adopted Dec. 4, 2006).

² Exhibit A, IRC.

³ Exhibit B, Controller’s Late Comments on the IRC. Note that pursuant to Government Code section 17553(d) “the Controller shall have no more than 90 days after the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the Commission.” However, in this instance, due to the backlog of IRCs, these late comments have not delayed consideration of this item and so they have been included in the analysis and proposed decision.

⁴ Exhibit C, Draft Proposed Decision.

section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁵ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."⁶

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.⁷

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.⁸ In addition, section 1185.1(f)(3) and 1185.2(c) of the Commission's regulations requires that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.⁹

Claims

The following chart provides a brief summary of the claims and issues raised and staff's recommendation.

Issue	Description	Staff Recommendation
Salaries and benefits of \$2,864,828 claimed under the category of administrative activities.	Of the nine activities claimed in this category, the Controller found only two are allowable: (1) updating status changes in <i>POBOR</i> case files, and (2)	<i>Correct</i> – the reduction of costs claimed for the seven activities beyond the scope of the mandate is correct as a matter of law and not

⁵ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁶ *County of Sonoma v. Commission on State Mandates* (2000), 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁷ *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

⁸ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

⁹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

	<p>updating the database and noting the case assignment to an investigator for adjudication. The seven disallowed activities (totaling \$2,746,417 claimed) were found to be beyond the scope of the mandate because they involve managing case files for investigations and disciplinary cases.¹⁰</p> <p>The parameters and guidelines authorize reimbursement <i>only</i> for developing or updating policies, specific mandate-related training, and updating the status of <i>POBOR</i> cases.</p>	arbitrary, capricious, or entirely lacking in evidentiary support.
Salaries and benefits of \$12,505,118 claimed under the category of interrogations.	<p>Claimant sought reimbursement for 15 activities, which the claimant described as involving: “time for conducting investigations, collecting evidence, writing reports, and editing reports.” The Controller found that \$11,289,312 claimed is unallowable because the activities claimed relate to the investigation process.¹¹</p> <p>The parameters and guidelines provide for reimbursement only for providing notice of the nature of the interrogation, tape recording the interrogation, providing access to the tape or transcription, as specified; and compensating an officer for an investigation that occurs during off-duty time, where necessitated by the seriousness of the investigation.</p>	<i>Correct</i> – the reduction of costs claimed for activities that are beyond the scope of the mandate is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

¹⁰ Exhibit A, IRC, pages 4-5, also in Exhibit A, IRC, page 83 (final audit report).

¹¹ Exhibit A, IRC, page 84 (final audit report).

	<p>The Commission did not approve for reimbursement the activities of conducting an investigation, collecting evidence, writing reports, editing reports, preparing for the interrogation, or conducting the interrogation. Rather, these activities were expressly denied by the Commission.</p>	
<p>Salaries and benefits of \$11,289,312 claimed under the category of adverse comment.</p>	<p>Of the 16 activities claimed under this component, the audit found that 11 are reimbursable, and five are not (totaling \$12,849,376) because they are part of the investigation process: (1) investigating the circumstances surrounding the adverse comment; (2) preliminary investigation conducted by supervisors, detectives, and the command staff in the area where the complaint was taken and that can include report writing, interviews, or any activity where information is gathered for the complaint form; (3) “time spent by an Area [sic] to investigate the complaint” after the preliminary investigation; (4) the assigned advocate reviews the investigation for status and thoroughness; and (5) the time needed to conduct any additional investigations.¹²</p> <p>The parameters and guidelines provide for reimbursement only to provide notice and an opportunity to respond to an adverse comment (if not already required by existing due process requirements), to obtain the signature of the officer on an</p>	<p><i>Correct</i> – the reduction of costs claimed for activities that are beyond the scope of the mandate is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.</p>

¹² Exhibit A, IRC, page 87 (final audit report).

	adverse comment, and 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.	
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Staff Analysis

The Reductions of Costs Claimed for Salaries, Benefits, and Related Indirect Costs in Audit Finding 1 Are Correct as a Matter of Law and Not Arbitrary, Capricious, or Entirely Lacking in Evidentiary Support.

The audit at issue here includes claim years 2003-2004 through 2005-2006, and the prior parameters and guidelines, adopted July 27, 2000, are applicable to those years.¹³ The parameters and guidelines amended effective July 1, 2006 apply to the later claim years of 2006-2007 and 2007-2008.

Pursuant to Government Code section 17557 and the Commission's regulations, parameters and guidelines are required to identify the activities the Commission finds to be mandated by the state, and those additional activities proposed by the claimant that the Commission finds and approves, based on substantial evidence in the record, to be reasonably necessary to comply with the state-mandated program.¹⁴ Under the rules of interpretation, when the language of an administrative agency's rule, such as the parameters and guidelines, is plain, the provisions are required to be enforced according to the terms of the document.¹⁵ Plain provisions of the administrative rule may not be disregarded or enlarged, nor may the interpretation go beyond the meaning of the words used when the words are clear and unambiguous. The parties are prohibited from writing into an administrative rule, by implication, express requirements that are

¹³ These parameters and guidelines were in effect when the costs were incurred. (*Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 809, fn. 5.)

¹⁴ Government Code sections 17557 and 17559; California Code of Regulations, title 2, section 1183.7; Former California Code of Regulations, title 2, section 1183.1 (Register 96, No. 30).

¹⁵ *Estate of Griswold* (2001) 25 Cal.4th 904, 910-911.

not there.¹⁶ The Commission's decisions on test claims and parameters and guidelines are quasi-judicial decisions that are binding on the parties.¹⁷

Moreover, later clarification of existing law, including the Commission's decision on reconsideration of this program, which clarified its original decision regarding the scope of the mandated activities, is not considered a retroactive application of a new rule, but is merely a statement of what the law has always been from the time it was enacted.¹⁸ Accordingly, the later decision adopted by the Commission on reconsideration may be used to aid in understanding the original parameters and guidelines.

Finding 1 of the audit report includes reductions in salaries and benefits for activities that the Controller determined are beyond the scope of the mandate. The reductions include unallowable activities, and related indirect costs, in the categories (as articulated in the parameters and guidelines) of administrative activities; interrogation; and adverse comment. The specific activities disallowed differ for each category and for each unit claiming costs. However, the denied activities primarily consist of managing case files, conducting investigations and interrogations, collecting evidence, writing reports, editing reports, preparing for the interrogation, and other activities that are part of the investigative process.

The *POBOR* mandate is very narrow, and only includes those due process procedural protections extended to public safety employees under sections 3301, 3303, 3304, 3305, and 3306 of the Government Code that exceed the due process protections of the state and federal constitutions. Reimbursement is not required for investigation and disciplinary activities conducted by the internal affairs unit of a police department, or that relate to the investigation process (e.g., reviewing a complaint to determine whether and to what extent to investigate, investigating the allegation, preparing for the interrogation, conducting the interrogation, and reviewing the responses given by the officers or witnesses).

Conclusion

Staff finds that the Controller's reductions of costs claimed are correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

Staff Recommendation

Staff recommends that the Commission adopt the proposed decision to deny the IRC, and authorize staff to make any technical, non-substantive changes following the hearing.

¹⁶ *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757.

¹⁷ *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200, which stated the following: "[U]nless a party to a quasi-judicial proceeding challenges the agency's adverse findings made in that proceeding, by means of a mandate action in superior court, those findings are binding in later civil actions." [Citation omitted.]

¹⁸ *McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

**IN RE INCORRECT REDUCTION CLAIM
ON:**

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

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;
Statutes 1990, Chapter 675.

Fiscal Years 2003-2004, 2004-2005,
2005-2006, 2006-2007, and 2007-2008

City of Los Angeles, Claimant

Case No.: 12-4499-I-02

Peace Officers Procedural Bill of Rights

DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500 ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted May 27, 2016)

DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on May 27, 2016. [Witness list will be included in the adopted decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/partially approve/deny] the IRC by a vote of [vote count will be included in the adopted decision] as follows:

Member	Vote
Ken Alex, Director of the Office of Planning and Research	
Richard Chivaro, Representative of the State Controller	
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	
Sarah Olsen, Public Member	
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	
Carmen Ramirez, City Council Member	
Don Saylor, County Supervisor	

Summary of the Findings

This incorrect reduction claim (IRC) challenges the State Controller's (Controller's) finding that the City of Los Angeles (claimant) claimed unallowable costs of \$21,464,469 (of \$35,648,462 claimed) for the *Peace Officers Procedural Bill of Rights (POBOR)* program for fiscal years 2003-2004 through 2007-2008. The sole issue is whether the claimed activities in finding 1 (unallowable salaries, benefits, and related indirect costs) are eligible for reimbursement pursuant to the parameters and guidelines and the Commission's *POBOR* decisions.

The Commission finds that the reduction of costs claimed for salaries, benefits, and related indirect costs in audit finding 1 are correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support. Accordingly, the Commission denies this IRC.

COMMISSION FINDINGS

I. Chronology

- 09/28/2012 Claimant filed the IRC.¹⁹
- 12/22/2014 Controller filed Late Comments on the IRC.²⁰
- 03/22/2016 Commission staff issued the Draft Proposed Decision.²¹

II. Background

The Peace Officers' Procedural Bill of Rights Program

The Peace Officers' Procedural Bill of Rights Act (POBOR)²² provides a series of procedural rights and safeguards to peace officers who are subject to investigation or discipline by their local government employer. On November 30, 1999, the Commission adopted the *Peace Officers Procedural Bill of Rights (POBOR)* Statement of Decision, CSM 4499, approving the test claim for activities that exceeded the requirements of the due process clauses of the United States and California Constitutions.²³ On July 27, 2000, the Commission adopted parameters

¹⁹ Exhibit A, IRC.

²⁰ Exhibit B, Controller's Late Comments on the IRC. Note that pursuant to Government Code section 17553(d) "the Controller shall have no more than 90 days after the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the Commission." However, in this instance, due to the backlog of IRCs, these late comments have not delayed consideration of this item and so they have been included in the analysis and proposed decision.

²¹ Exhibit C, Draft Proposed Decision.

²² The Peace Officers' Procedural Bill of Rights has been abbreviated "POBRA," by the courts (See *Department of Finance v. Commission* (2009) 170 Cal.App.4th 1355); and as "POBAR," by the Commission in the parameters and guidelines (Exhibit A, IRC (parameters and guidelines), p. 12) and on many other occasions the Commission and others have employed the acronym "POBOR," and this decision will follow suit.

²³ Exhibit B, Controller's Late Comments on the IRC, page 38 (Statement of Decision, CSM 4499, November 30, 1999, p. 11). For example, the Commission found: "in some

and guidelines that authorized reimbursement, beginning July 1, 1994, 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 *POBOR* 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. These activities include providing notice to the officer, an opportunity for the officer to review and respond to the adverse comment, and obtaining the signature of the officer or noting the officer's refusal to sign the adverse comment.²⁴

The parameters and guidelines analysis adopted by the Commission on July 27, 2000, also clarified the scope of the mandate and the activities that are *not* eligible for reimbursement. For example, the Commission determined that “[b]efore the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions, and maintaining files for those cases,” so that those activities are not reimbursable.²⁵ The Commission also found that defending a lawsuit attacking the validity of the final administrative

circumstances, the due process clause requires the same administrative hearing as the test claim legislation. However, as reflected by the table below, the Commission found that the test claim legislation is broader than the due process clause and applies to additional employer actions that have not previously enjoyed the protections of the due process clause.”

²⁴ Exhibit A, IRC, page 29 (Statement of Decision on Reconsideration, 05-RL-4499-01, April 26, 2006, p. 7). Exhibit B, Controller's Late Comments on the IRC, pages 60-65 (Parameters and Guidelines, corrected Aug. 17, 2000). These Parameters and Guidelines were adopted on July 27, 2000, but two non-substantive clerical errors were corrected and they were issued on August 17, 2000.

²⁵ Exhibit B, Controller's Late Comments on the IRC, page 169 (Final Staff Analysis on the Proposed Parameters and Guidelines, July 27, 2000, p. 5).

decision went beyond the scope of the mandate and is not eligible for reimbursement.²⁶ The Commission further recognized that Government Code section 3303(a) addresses only the compensation and timing of an interrogation and does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, or review the responses given by the officers and/or witnesses.²⁷ And the Commission found that compensating local agencies for the officer's time in responding to an adverse comment is not mandated by the state and not reimbursable.²⁸

Statutes 2005, chapter 72, section 6 added section 3313 to the Government Code that directed the Commission to "review" the *POBOR* test claim Statement of Decision to determine whether it was 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 *POBOR* Statement of Decision on Reconsideration, 05-RL-4499-01. On review, the Commission found that the *San Diego Unified* case supported the Commission's 1999 Statement of Decision, which found that the test claim statutes imposed a partially reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The reconsideration decision clarified the scope of the mandate, making clear that the test claim statute does not require an employer to investigate an officer's conduct, interrogate an officer, take punitive action against the officer, or place an adverse comment in an officer's personnel file. The *POBOR* mandate is about new procedures governing peace officer labor relations, but investigations of misconduct or malfeasance are beyond the scope of the mandate.²⁹

On December 4, 2006, the Commission adopted amended parameters and guidelines for costs incurred beginning July 1, 2006, based on the *POBOR* Statement of Decision on Reconsideration, a report issued by the Bureau of State Audits on the program recommending that the Commission clarify the activities that are reimbursable and those that are not, and based on several requests to amend the parameters and guidelines. These amended parameters and guidelines authorize reimbursement for all activities previously approved by the Commission except the following that were no longer reimbursable:

- 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

²⁶ *Id.*, page 171.

²⁷ *Id.*, page 180.

²⁸ *Id.*, page 184.

²⁹ Exhibit A, IRC, pages 29, 64-65 (Statement of Decision on Reconsideration, 05-RL-4499-01, April 26, 2006); see also page 41, where the Commission found that:

The [POBOR] rights are not triggered, however, until the employing agency decides to interrogate an officer, take punitive action against the officer, or place an adverse comment in an officer's personnel file. These initial decisions are not mandated by the state, but are governed by local policy, ordinance, city charter, or a memorandum of understanding.

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.)

- 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).³⁰

On March 28, 2008, the Commission amended the parameters and guidelines again, following requests filed by the Department of Finance and the County of Los Angeles, to allow claimants reimbursement based on actual costs incurred or pursuant to a unit cost reasonable reimbursement methodology adopted, beginning July 1, 2006.³¹

The Controller’s Audit and Summary of the Issues

The reimbursement claims were based on a time study the claimant conducted in May 2004, which was designed to keep track of *POBOR* related activities performed by the claimant. The claimant used this time study to claim costs for fiscal years 2003-2004 through 2007-2008.³² Costs of \$35,648,462 for salaries and benefits for the audit period were claimed. In audit finding 1 (the only disputed finding in this IRC), the Controller determined that \$14,183,993 is allowable and \$21,464,469 is unallowable because the activities claimed are not identified in the parameters and guidelines as reimbursable costs. The related unallowable indirect costs total \$8,307,090.

Finding 1 was divided into three components that correspond to the categories in the parameters and guidelines: administrative activities, interrogations, and adverse comment. Since the reimbursement claims were based on a time study, the Controller was able to separate the time attributable to each claimed task and separate minute increments for individual activities in order to exclude time spent on unallowable activities.³³

Of the \$2,864,828 claimed for administrative activities, the Controller found \$2,746,417 was unallowable. Of the nine activities claimed in this category, the Controller found only two to be allowable: updating status changes in *POBOR* case files and updating the database and noting

³⁰ See Exhibit B, Controller’s Late Comments on the IRC, page 188 (Final Staff Analysis on Requests to Amend the Parameters and Guidelines, Adopted Dec. 4, 2006).

³¹ Exhibit B, Controller’s Late Comments on the IRC, pages 85-99 (Parameters and Guidelines, 06-PGA-06, amended March 28, 2008).

³² Exhibit A, IRC, page 88 (final audit report); Exhibit B, Controller’s Late Comments on the IRC, pages 100-167 (tab 7, Analysis of Claimed Activities).

³³ Exhibit A, IRC, page 88 (final audit report); Exhibit B, Controller’s Late Comments on the IRC, pages 100-167 (tab 7, Analysis of Claimed Activities).

the case assignment to an investigator for adjudication.³⁴ The seven disallowed activities include: (1) creating a file and case number when the complaint form is received; (2) reading the complaint form and determining the best entity to perform the investigation; (3) updating the database when the investigation is complete; (4) updating the database for Internal Affairs' review; (5) creating another file and entering it into the advocate database for cases in the appeal phase; (6) distributing copies of the face sheet to concerned parties; and (7) closing out the case file by updating the database.³⁵

Of the \$12,505,118 claimed for interrogations, the Controller found \$11,289,312 to be unallowable. Claimant sought reimbursement for 15 activities, but did not provide a description of them. The Controller said "LAPD [Los Angeles Police Dept.] staff stated that these activities involved time for conducting investigations, collecting evidence, writing reports, and editing reports. We determined that these activities are unallowable because they relate to the investigation process."³⁶

Of the \$20,278,116 claimed for adverse comment activities, the Controller found \$12,849,376 to be unallowable. Of the 16 activities claimed under this component, the audit found that the following 11 are reimbursable: (1) reviewing the complaint form and determining whether it warrants further investigation; (2) providing first notice of the adverse comment and of an investigation and providing an opportunity to the accused officer to respond within 30 days; (3) providing first notice of the adverse comment and that an investigation is taking place and providing the officer an opportunity to respond within 30 days; (4) the officer under investigation reviewing and signing the adverse comment or complaint fact sheet; (5) the time involved if the officer under investigation refuses to sign the face sheet or initial the adverse comment; (6) review by Internal Affairs Management of a completed case before sending it out for notification to the officer under investigation; (7) time spent by the Command Officer (accused officer's supervisor) of the Area to adjudicate the complaint, including reviewing the completed complaint and writing a Letter of Transmittal; (8) area commanding officer review of complaint and letter of transmittal; (9) preparing the charge sheet for the chief of police to sign; (10) ensuring the accused officer is served with the charge sheet and obtaining the officer's signature or noting the refusal to sign; and (11) reviewing the accused officer's response to the complaint.³⁷

The Controller also found five of the activities claimed under the adverse comment component to not be reimbursable because they are part of the investigation process: (1) investigating the circumstances surrounding the adverse comment; (2) preliminary investigation conducted by supervisors, detectives, and the command staff in the area where the complaint was taken and that can include report writing, interviews, or any activity where information is gathered for the complaint form; (3) "time spent by an Area [sic] to investigate the complaint" after the

³⁴ Exhibit A, IRC, pages 4-5, also in Exhibit A, page 83 (final audit report).

³⁵ Exhibit A, IRC, pages 4-5, also in Exhibit A, page 83 (final audit report).

³⁶ Exhibit A, page 84 (final audit report).

³⁷ Exhibit A, pages 86-87 (final audit report).

preliminary investigation; (4) the assigned advocate reviews the investigation for status and thoroughness; and (5) the time needed to conduct any additional investigations.³⁸

III. Positions of the Parties

A. City of Los Angeles

The claimant argues that audit finding 1 (unallowable salaries, benefits and related indirect costs) is incorrect because the Controller “erred by limiting the scope of the eligible interrogation, administrative, and adverse comment activities.”³⁹ For the administrative activities (of which five were found not reimbursable) the claimant argues that “all seven activities are necessary for a local agency the size and complexity of the Los Angeles Police Department to carry out the administrative activities associated with the mandate.”⁴⁰ For the interrogation activities, claimant argues that the parameters and guidelines as amended March 28, 2008, do not reflect the original *POBOR* Statement of Decision that found eligible costs included: “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 and new requirements not previously imposed on local agencies and school districts.” Noting that the Controller has limited reimbursement for officer overtime, claimant argues that the costs for conducting interrogations during regular work time, and preparing for those interrogations, is reimbursable.⁴¹ As to the adverse comment activities, the claimant contends that most of the claimed activities are necessary to comply with the adverse comment requirements and should be reimbursable because the parameters and guidelines are inconsistent with the mandate requirements and the original statement of decision.⁴²

B. State Controller’s Office

The Controller maintains that the audit reductions are correct and that the IRC should be denied because the reduced salary and benefit costs claimed are not eligible for reimbursement.⁴³ For the administrative activities, the Controller disallowed activities relating to managing case files because the July 27, 2000 staff analysis adopted by the Commission for the proposed parameters and guidelines said “before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary hearings, and maintaining files for those cases.”⁴⁴ According to the Controller, the parameters and guidelines are limited to

³⁸ Exhibit A, IRC, page 87 (final audit report).

³⁹ Exhibit A, IRC, page 3.

⁴⁰ *Id.*, page 5.

⁴¹ *Id.*, page 7.

⁴² *Id.*, page 9.

⁴³ Exhibit B, Controller’s Late Comments on the IRC, pages 10-12.

⁴⁴ *Id.*, pages 14 and 169 (Final Staff Analysis on Proposed Parameters and Guidelines, adopted July 27, 2000).

reimbursement for activities that relate to updating the status report of the mandate-related activities.⁴⁵

The Controller also disagrees with the claimant's argument that interrogations conducted during an officer's regular on-duty time are reimbursable, noting that the claimant takes a sentence from the *POBOR* Statement of Decision out of context. Claimant quotes language from the section of the Decision discussing "Compensation and Timing of an Interrogation," the purpose of which was to discuss the test claimant's assertion that Government Code section 3303(a) results in payment of overtime to the investigated employee.⁴⁶ Moreover, the claimant ignores other language in the decision that prefaces the analysis of this issue, such as: "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 admonition by a supervisor."⁴⁷ The Controller also quotes language from the staff analysis adopted by the Commission on the proposed parameters and guidelines (adopted July 27, 2000) that states:

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).)⁴⁸

The Controller further notes that the Commission revisited this issue in its analysis of the request to amend the parameters and guidelines (amended Dec. 4, 2006). The Commission's final staff analysis 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.

⁴⁵ *Id.*, page 12.

⁴⁶ Exhibit B, Controller's Late Comments on the IRC, page 18.

⁴⁷ *Id.* pages 18 and 39 (Statement of Decision CSM-4499, adopted Nov. 30, 1999, p. 12).

⁴⁸ Exhibit B, Controller's Late Comments on the IRC, pages 19 and 180 (Final Staff Analysis on Proposed Parameters and Guidelines, adopted July 27, 2000).

However ... 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.⁴⁹

The Controller concludes that to state interrogations conducted during an officer's regular on-duty time is reimbursable is "contrary to the preponderance of evidence found in the administrative record" for this mandate program.

The Controller also disagrees with the claimant's position that its "adverse comment" activities are reimbursable. The activities denied for reimbursement were part of the city's investigative process. The Controller responds to the claimant's argument that the parameters and guidelines are not consistent with the original *POBOR* Statement of Decision by noting that:

This analysis was addressed above for costs claimed under the Interrogations cost component and was pled by the test claimant for activities appearing in Government Code section 3303, subdivision (a). The costs for Adverse Comment were pled by the test claimant for activities appearing in Government Code sections 3305 and 3306. Accordingly, costs claimed under the Adverse Comment cost component have no relevance to costs claimed under the Interrogations cost component. The city's position is an expanded interpretation of the language in the parameters and guidelines that is taken out of context. The costs for conducting investigations were never included in the Adverse Comment cost component as reimbursable activities.⁵⁰

IV. Discussion

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state mandated costs that the Controller determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the statement of decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.⁵¹ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable

⁴⁹ Exhibit B, Controller's Late Comments on the IRC, pages 19 and 207 (Final Staff Analysis on Proposed Parameters and Guidelines, adopted Dec. 4, 2006, p. 22).

⁵⁰ Exhibit B, Controller's Late Comments on the IRC, pages 22-23.

⁵¹ Government Code sections 17551, 17552; *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334.

remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁵²

With regard to the Controller’s audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.⁵³ Under this standard, the courts have found that:

When reviewing the exercise of discretion, “[t]he scope of review is limited, out of deference to the agency’s authority and presumed expertise: ‘The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]’” ... “In general ... the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support. . . .” [Citations.] When making that inquiry, the “ ‘court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.’ ”⁵⁴

The Commission must review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.⁵⁵ In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission’s regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.⁵⁶

The Reduction of Costs Claimed for Salaries, Benefits, and Related Indirect Costs in Audit Finding 1 Are Correct as a Matter of Law, and Not Arbitrary, Capricious, or Entirely Lacking in Evidentiary Support.

The Commission first adopted parameters and guidelines for the *POBOR* mandate on July 27, 2000,⁵⁷ which were amended pursuant to legislative direction following the Commission’s reconsideration of the program on December 4, 2006, with reimbursement beginning July 1,

⁵² *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁵³ *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

⁵⁴ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

⁵⁵ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

⁵⁶ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

⁵⁷ Exhibit B, Controller’s Late Comments on the IRC, page 169 (Final Staff Analysis on Proposed Parameters and Guidelines, adopted July 27, 2000).

2006.⁵⁸ The parameters and guidelines, adopted July 27, 2000, are applicable to the audit of the 2003-2004 through 2005-2006 reimbursement claims.⁵⁹ The parameters and guidelines as amended on December 4, 2006 (effective July 1, 2006) apply to the 2006-2007 and 2007-2008 reimbursement claims.

Pursuant to Government Code section 17557 and the Commission's regulations, parameters and guidelines are required to identify the activities the Commission finds to be mandated by the state, and additional activities proposed by the claimant that the Commission finds and approves, based on substantial evidence in the record, to be reasonably necessary to comply with the state-mandated program.⁶⁰ Parameters and guidelines are regulatory in nature and are interpreted the same as regulations and statutes.⁶¹ Interpretation of an administrative agency's rule, including the Commission's parameters and guidelines, is a question of law.⁶²

Under the rules of interpretation, when the language of an administrative agency's rule, such as the parameters and guidelines, is plain, the provisions are required to be enforced according to the terms of the document. The California Supreme Court determined that:

In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. We begin by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. [Citations omitted.]⁶³

The language of the parameters and guidelines must be construed in the context of the Commission's decisions and adopted analyses on the test claim and parameters and guidelines, so that every provision may be harmonized and have effect.⁶⁴ Under these rules, plain

⁵⁸ *Id.*, pages 188, 236 (Final Staff Analysis on Requests to Amend Parameters and Guidelines, adopted December 4, 2006).

⁵⁹ These parameters and guidelines were in effect when the costs were incurred. (*Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 809, fn. 5.)

⁶⁰ Government Code sections 17557 and 17559; California Code of Regulations, title 2, section 1183.7; Former California Code of Regulations, title 2, section 1183.1 (Register 96, No. 30).

⁶¹ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 799.

⁶² *Culligan Water Conditioning v. State Board of Equalization* (1976) 17 Cal.3d 86, 93; see also, *County of San Diego v. State* (1997) 15 Cal.4th 68, 81; 109, where the court held that the determination whether reimbursement is required pursuant to article XIII B, section 6 is a question of law.

⁶³ *Estate of Griswold* (2001) 25 Cal.4th 904, 910-911.

⁶⁴ *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 781-782; see also, Government Code sections 17514 (defining "costs mandated by the state"), 17550 (providing that "reimbursement ... for costs mandated by the state shall be provided pursuant to this chapter"), 17551 (requiring the Commission to hear and decide a claim that a local agency is entitled to be reimbursed by the state for costs mandated by the state as required by article XIII B, section 6 of the California Constitution), 17552 (providing that this chapter shall be the

provisions of the administrative rule may not be disregarded or enlarged, nor may the interpretation go beyond the meaning of the words used when the words are clear and unambiguous. Thus, the parties are prohibited from writing into an administrative rule, by implication, express requirements that are not there.⁶⁵ The Commission's decisions on test claims and parameters and guidelines are quasi-judicial decisions that are binding on the parties.⁶⁶

Moreover, later clarification of existing law, including the Commission's decisions on reconsideration of this program, which clarified its original decision regarding the scope of the mandated activities, may be applied to reimbursement claims for costs that predate the 2006 parameters and guidelines amendment. This is because the Commission's clarification is not considered a retroactive application of a new rule, but is merely a statement of what the law has always been from the time it was enacted.⁶⁷ Accordingly, the later decision adopted by the Commission on reconsideration may be used to aid in understanding the original parameters and guidelines.

Finding 1 of the audit report includes reductions in salaries and benefits for activities that the Controller determined were beyond the scope of the mandate. The reductions include activities and related indirect costs in the categories (as articulated in the parameters and guidelines) of administrative activities; interrogation; and adverse comment. The Commission finds that the audit reductions are correct as a matter of law, and not arbitrary, capricious, or without evidentiary support.

A. The Controller's reduction of costs claimed for administrative expenses is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The city claimed \$2,864,828 for nine administrative activities, of which \$2,746,417 was found unallowable in the audit. Based on an examination of the claimant's time study conducted in 2003-2004,⁶⁸ the Controller found only the following two administrative activities (of nine activities claimed) to be reimbursable because they involve updating the status report of the mandate-related activities:

sole and exclusive procedure by which a local agency may claim reimbursement for costs mandated by the state), 17557 (governing the adoption of parameters and guidelines after the Commission determines there are costs mandated by the state), and 17558 (providing that the Controller's claiming instructions must be derived from the Commission's test claim decision and adopted parameters and guidelines).

⁶⁵ *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757.

⁶⁶ *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200, which states: "[U]nless a party to a quasi-judicial proceeding challenges the agency's adverse findings made in that proceeding, by means of a mandate action in superior court, those findings are binding in later civil actions." [Citation omitted.]

⁶⁷ *McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471.

⁶⁸ Exhibit B, Controller's Late Comments on the IRC, page 11.

1. **Status:** This activity occurs in the Administrative Records Section (ARS) and involves the time needed to update status changes within POBOR case files. Per LAPD staff, the cases are updated for every activity and/or procedural change.
2. **Assign:** This activity consists solely of updating the database and noting the case assignment to an investigator for adjudication.⁶⁹

The Controller also found that the following seven claimed activities are not reimbursable because the activities involve managing case files for investigations and disciplinary cases:

3. **Comment:** The ARS section in Internal Affairs performs this task by creating a file and a case number when the Professional Standards Bureau receives a “1.28” complaint form. Per LAPD staff, this activity is an internal procedure created by LAPD to ensure compliance with the investigation time frame of one year.
4. **Locate:** This activity denotes the time required for the Classification Unit to read the “1.28” (complaint form) and determine the best entity to perform the investigation. After determining which entity will investigate, the form is sent to the ARS.
5. **Invest:** When the investigation is complete, the case file is sent to the Review and Evaluation Section. This activity consists of updating the database to note this information.
6. **IA Review:** This activity consists of the time it takes to update the database for Internal Affairs’ (IAG) review. Per LAPD staff, this activity is similar to Invest, but one IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It is another type of review and another change in status.
7. **Appeal:** This activity takes place when the case is going to the Advocate Section, where another file is created and entered into the Advocate Database. Per LAPD staff, the case is in the appeal phase and is no longer being investigated or reviewed. This activity pertains to the procedural process of transferring a case in the Advocate Unit, tracking the appeal process, and tracking where the case is.
8. **Note:** This activity consists of distributing copies of the face sheet (which contains the summary of allegations and the names of the involved parties) to concerned parties. This activity occurs in the ARS and is based on the time it takes to update the database for the activity.
9. **Close out:** The ARS closes out the case file and documents this activity. This activity is a database update function.⁷⁰

The Controller states that the parameters and guidelines do not authorize reimbursement for activities related to managing case files and that the denied activities listed above fall into that

⁶⁹ Exhibit A, IRC, pages 4-5, also in Exhibit A, IRC, page 83 (final audit report).

⁷⁰ Exhibit A, IRC, pages 4-5, also in Exhibit A, IRC, page 83 (final audit report); Exhibit B, Controller’s Late Comments on the IRC, pages 100-167 (Tab 7 Analysis of Claimed Activities).

category. The Controller argues that the parameters and guidelines only allow reimbursement for those activities that relate to updating the status report of the mandate-related activities.⁷¹

The claimant argues that the seven activities denied for reimbursement are necessary to carry out the administrative activities associated with the mandate as follows:

The City finds the SCO has incorrectly interpreted the parameters and guidelines and statement of decision for the POBOR program. Their extremely narrow and limited interpretation has resulted in nearly 95% of the costs. The City does not agree with the SCO's interpretation of what is necessary to comply with the constitutional "due process" activities afforded all government employees and what additional activities are imposed on peace officers by the POBOR mandate. The City asserts that all seven [disallowed] activities are necessary for a local agency the size and complexity of the Los Angeles Police Department to carry out the administrative activities associated with the mandate.⁷²

As originally adopted in July 2000, section IV.A of the parameters and guidelines provides reimbursement for the following administrative activities:

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.
3. Updating the status of the POBAR cases.⁷³

The analysis for the parameters and guidelines adopted by the Commission on July 27, 2000, considered a request by the test claimant to authorize reimbursement for "maintenance of the systems to conduct the mandated activities" as a reasonably necessary activity. The Commission denied the request because the activity was too broad and local agencies were maintaining files on peace officer investigations and disciplinary actions before the enactment of the test claim statutes:

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 Accordingly, staff has modified this component to provide

⁷¹ Exhibit B, Controller's Late Comments on the IRC, page 12.

⁷² Exhibit A, IRC, page 5.

⁷³ Exhibit B, Controller's Late Comments on the IRC, page 60 (Parameters and Guidelines, corrected Aug. 17, 2000).

that claimants are eligible for reimbursement for “updating the status report of the POBAR cases.”⁷⁴

Therefore, the Commission’s adopted decision on the parameters and guidelines reflects its consideration that prior to the *POBOR* mandate, local agencies were already investigating complaints, disciplining peace officer employees, and maintaining case files for those investigations and disciplinary actions.⁷⁵ Thus, the reimbursable activity to update the status of the *POBOR* cases is limited to updating the status of the new procedural requirements mandated by the state.

This interpretation is further evidenced by the Commission’s clarification of this activity when it amended the parameters and guidelines on December 4, 2006, as follows (with changes in ~~strikeout~~ and underline):

Updating the status report of ~~mandate-reimbursable POBOR cases~~ activities. “Updating the status report of mandate-reimbursable POBOR activities” means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.⁷⁶

Section IV.C. of the parameters and guidelines, as amended on December 4, 2006, further provides:

The following activities are **not** reimbursable:

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.⁷⁷

As indicated above, the Commission’s amendment to the parameters and guidelines is a clarification of what the law has always been from the time it was enacted.⁷⁸

⁷⁴ Exhibit B, Controller’s Late Comments on the IRC, page 169 (Final Staff Analysis on Proposed Parameters and Guidelines, adopted July 27, 2000, emphasis in original).

⁷⁵ See Exhibit B, Controller’s Late Comments on the IRC, page 180. (In the Final Staff Analysis on Proposed Parameters and Guidelines, adopted July 27, 2000, p. 16, it was noted that: “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 [sic] was enacted.”)

⁷⁶ Exhibit B, Controller’s Late Comments on the IRC, page 72 (adopted Parameters and Guidelines Amendment, December 6, 2006, p. 4).

⁷⁷ Exhibit B, Controller’s Late Comments on the IRC, page 76 (adopted Parameters and Guidelines Amendment, December 6, 2006, p. 8).

⁷⁸ *McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471.

In this case, the costs claimed include those to create a file when a complaint form is received, read the complaint and determine the best entity to investigate, update the file when the investigation is complete, update the file when the Internal Affairs Unit reviews the investigation, update the file when the matter is transferred to the Advocate Unit for disciplinary action, distribute copies of the summary of allegations and names of the parties involved, and close the file when the disciplinary action is complete. None of these activities are mandated by the state. Nor have these activities been approved by the Commission as eligible for reimbursement. As indicated above, the parties are prohibited from writing into the parameters and guidelines, by implication, express requirements that are not there.⁷⁹ In fact, the Commission specifically held that activities to take an initial complaint, set up a complaint file, interview and investigate the facts, and review the file are *not* reimbursable. The Commission's decisions on parameters and guidelines are quasi-judicial decisions that are binding on the parties.⁸⁰

In addition, one of the activities denied in the audit was “**Comment:** . . . creating a file and a case number when the Professional Standards Bureau receives a “1.28” complaint form. Per LAPD staff, this activity is an internal procedure created by LAPD *to ensure compliance with the investigation time frame of one year.*”⁸¹ Ensuring timely completion of the investigation, however, was considered by the Commission upon the request of a city when the parameters and guidelines were amended on December 4, 2006. The Commission expressly rejected this activity because the statute that imposes the time limit was not pled in the test claim. In dismissing the objections, the Commission said:

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. [Stats. 1997, ch. 148.] 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.⁸²

Thus, the activities identified by the claimant to support the claimant's time study go beyond the scope of the mandated program. Moreover, as indicated by the Controller, the claimant has not

⁷⁹ *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757.

⁸⁰ *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200.

⁸¹ Exhibit A, IRC, pages 4-5, also in Exhibit A, IRC, page 83 (final audit report, emphasis added).

⁸² Exhibit A, IRC, page 93 (final audit report). Exhibit B, Controller's Late Comments on the IRC, page 200 (Final Staff Analysis on Requests to Amend Parameters and Guidelines, adopted December 4, 2006, p. 15).

provided any information or evidence to show that these activities fall within the scope of the mandate to update the status report of the mandate-related activities only.⁸³ In addition, there is no evidence in the record that the Controller's calculation of the costs reduced from the claimant's time study is arbitrary, capricious, or entirely lacking in evidentiary support.

Therefore, the Commission finds that the Controller's reduction of costs for administrative expenses is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

B. The Controller's reduction of costs claimed for interrogation expenses is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The city claimed \$12,505,118 for interrogations, of which \$11,289,312 was found unallowable in the audit. The city claimed the following 15 activities under the interrogations category:

1. Admin task (Administrative Task)
2. Call out
3. CO Contact (Commanding Officer Contact)
4. Evidence Collect
5. Interview in person
6. Interview Telephone
7. Kickback Editing
8. Mcct/Brief/Notify
9. Non-Evidence Task
10. Paraphrasing
11. Prep for Interview
12. Report Formatting
13. Telephone Contact
14. Travel
15. VI Computer Task⁸⁴

According to the audit:

The city did not provide a formal description of these activities. LAPD staff stated that these activities involved time for conducting investigations, collecting evidence, writing reports, and editing reports. We determined that these activities are unallowable because they relate to the investigation process.⁸⁵

The Controller states, however, that these 15 activities were not included in the documents supporting the time study the claimant used to calculate costs. Instead, the claimant's time study was based on the following activities, none of which were actually included in the reimbursement claims: conducting the interrogations usually during normal working hours; providing notice to the officer regarding the nature of the interrogation and identification of the investigating officer; determining who the investigating officer will be; tape recording the

⁸³ Exhibit B, Controller's Late Comments on the IRC, page 13.

⁸⁴ Exhibit A, IRC, page 84 (final audit report).

⁸⁵ *Ibid*; see also, Exhibit B, Controller's Late Comments on the IRC, pages 100-163 (Tab 7 Analysis of Claimed Activities).

interrogation; and booking the tape at the Scientific Investigations Division.⁸⁶ The Controller agrees that some of the unclaimed activities that supported the time study are eligible for reimbursement (i.e., notice and tape recording when the person being interrogated requests the recording, and booking or storing the tape),⁸⁷ but it is not clear from the record how the Controller calculated the reduction of costs.⁸⁸

The claimant does not challenge either the calculation of the partial reduction of costs claimed or the Controller's characterization that the 15 claimed activities consisting of conducting investigations, collecting evidence, writing reports, and editing reports. Instead, claimant argues that the entire reduction is incorrect because the Commission's original *POBOR* Statement of Decision on the test claim found that eligible costs included: "Conducting the investigation when the peace officer is on duty, *and* compensating the peace officer for off-duty overtime in accordance with regular department procedures are new requirements not previously imposed on local agencies or school districts." The claimant "believes the costs for conducting interrogations during regular work time is reimbursable, as is preparation for those interrogations" and argues that the Controller's interpretation of the parameters and guidelines is inconsistent with the statement of decision. According to the claimant, "the Statement of Decision is given deference when there is a discrepancy between the finding of a judicial body and the documents that arise from that finding."⁸⁹

The Commission finds that the claimant's interpretation of the test claim statement of decision and parameters and guidelines is wrong. The Commission did not approve for reimbursement the activities of conducting an investigation, collecting evidence, writing reports, editing reports, preparing for the interrogation, or conducting the interrogation. As shown below, these activities were expressly denied by the Commission.

In the statement of decision on the test claim, the Commission found that Government Code section 3303(a) establishes procedures for the timing and compensation of a peace officer subject to interrogation by an employer. If the interrogation takes place during the officer's off-duty hours because of the seriousness of the investigation, then reimbursement was approved for compensating the officer for off-duty time in accordance with regular department procedures.⁹⁰ When adopting the parameters and guidelines in July 2000, the Commission agreed with a staff recommendation that Government Code section 3303 does not require local agencies to investigate, prepare for the interrogation, conduct the interrogation, or review the responses, and adopted the following analysis:

⁸⁶ Exhibit A, IRC, page 85 (final audit report).

⁸⁷ Exhibit B, Controller's Late Comments on the IRC, pages 61-62 (Parameters and Guidelines, corrected August 17, 2000).

⁸⁸ Exhibit B, Controller's Late Comments on the IRC, pages 100-163 (Tab 7 Analysis of Claimed Activities).

⁸⁹ Exhibit A, IRC, page 7.

⁹⁰ Exhibit B, Controller's Late Comments on the IRC, page 39 (Statement of Decision adopted November 30, 1999).

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 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.⁹¹

There is no conflict between the analysis adopted by the Commission for the parameters and guidelines and the statement of decision adopted by the Commission on the test claim, as asserted by the claimant. Both clearly state that Government Code section 3303(a) only affects the timing of an interrogation and compensation required to be provided if the interrogation occurred during off-duty hours. Thus, the parameters and guidelines authorize reimbursement for "compensating a peace officer for interrogations occurring during off-duty time in accordance with regular department procedures" when required by the seriousness of the investigation.⁹² The state, however, has not mandated local agencies to investigate, interrogate, or review interrogation responses. As explained by the courts, POBOR deals with labor relations. It does not interfere with the employer's existing right to manage and control its own police department.⁹³

When the Commission adopted the April 26, 2006 *POBOR* Statement of Decision on Reconsideration, it clarified its earlier findings that activities to investigate, prepare for the interrogation, conduct the interrogation, and review responses given by officers and/or witnesses to an investigation 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

⁹¹ Exhibit B, Controller's Late Comments on the IRC, page 180 (Final Staff Analysis on the Proposed Parameters and Guidelines, July 27, 2000).

⁹² Exhibit B, Controller's Late Comments on the IRC, page 61 (Parameters and Guidelines, corrected Aug. 17, 2000).

⁹³ *Sulier v. State Personnel Bd.* (2004) 125 Cal.App.4th 21, 26; *Baggett v. Gates* (1982) 32 Cal.3d 128, 135.

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 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. [Citing to Analysis adopted by the Commission on Parameters and Guidelines, July 22, 2000.]

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. [Citing *Sulier v. State Personnel Bd.* (2004) 125 Cal.App.4th 21, 26.] It does not interfere with the employer’s right to manage and control its own police department. [Citing *Baggett v. Gates* (1982) 32 Cal.3d 12832 Cal.3d 128, 135.]⁹⁴

⁹⁴ Exhibit A, IRC, pages 64-65 (Statement of Decision on Reconsideration, 05-RL-4499-01, April 26, 2006, emphasis in original).

When the parameters and guidelines were amended in December 2006, the Commission again rejected reimbursement for investigation costs:

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 the interrogation.⁹⁵

The *POBOR* Parameters and Guidelines on Reconsideration clearly state these findings by clarifying the following activities that 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.⁹⁶

Therefore, the Controller's reduction of costs claimed to conduct investigations, conduct interrogations, collect evidence, write reports, and edit reports is correct as a matter of law. Moreover, there is no evidence in the record that the Controller's calculation of the costs reduced from the claimant's time study is arbitrary, capricious, or entirely lacking in evidentiary support.

Accordingly, the Controller's reduction of costs claimed for interrogations is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

C. The Controller's reduction of costs claimed for adverse comment expenses is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The city claimed \$20,217,116 in salaries and benefits for the adverse comment component during the audit period, of which \$7,428,740 was found unallowable because the activities claimed were beyond the scope of the reimbursable mandate. Of the 16 activities claimed under

⁹⁵ Exhibit B, Controller's Late Comments on the IRC, page 207 (Final Staff Analysis on Requests to Amend Parameters and Guidelines, adopted December 4, 2006).

⁹⁶ Exhibit B, Controller's Late Comments on the IRC, page 76 (Parameters and Guidelines, amended December 4, 2006).

this component, the Controller found that the following five are not reimbursable because they are part of the investigative process:

Preliminary: This activity involves investigating the circumstances surrounding the adverse comment.

Collect: This activity consists of the preliminary investigation conducted by supervisors, detectives, and the command staff in the area where the complaint was taken. This activity can include report writing, interviews, or any activity where information is gathered for the "1.28" (complaint form).

Area invest: This activity consists of the time spent by an Area to investigate the complaint or "1.28" (complaint form). This activity occurs after the preliminary investigation.

Inspect: This activity occurs when the assigned advocate reviews the investigation for status and thoroughness.

RE invest: This activity involves the time needed to conduct any additional investigations.⁹⁷

All versions of the parameters and guidelines, under the component of adverse comment, separately list the reimbursable activities for school districts, counties, and cities and special districts, respectively.⁹⁸ For purposes of this IRC, only the reimbursable activities provided for cities are relevant. The parameters and guidelines provide three conditional statements, pertaining to the potential consequences of the adverse comment, and provide for different reimbursable activities in each case, depending on the existing requirements of due process or other law that are not reimbursable under the test claim decision:

- If an adverse comment results in dismissal, suspension, demotion, reduction in pay, or written reprimand for a permanent employee 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 officer's signature on the adverse comment, or noting the officer's refusal to sign the adverse comment and obtaining the signature or initials of the officer.
- If an adverse comment is related to a possible criminal offense, cities are entitled to reimbursement for providing notice of the adverse comment; providing an opportunity to review and sign the adverse comment; providing an opportunity to respond within 30 days; and noting an officer's refusal to sign and obtaining a signature or initials under such circumstances.
- If an adverse comment is not related to a possible criminal offense, cities are entitled to reimbursement for providing notice of the adverse comment; providing an opportunity to

⁹⁷ Exhibit A, IRC, page 87 (final audit report).

⁹⁸ For example, see Exhibit B, Controller's Late Comments on the IRC, pages 76-77 (Parameters and Guidelines, amended December 4, 2006).

respond within 30 days; obtaining the signature of the officer; or noting the officer's refusal to sign and obtaining a signature or initials.⁹⁹

The parameters and guidelines also authorize reimbursement for the following activities found to be reasonably necessary to comply with the mandates associated with adverse comments:

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.¹⁰⁰

However, as discussed throughout this analysis, the reimbursable activities pertaining to an adverse comment do not include investigative activities, including reviewing a complaint to determine whether and to what extent to investigate.¹⁰¹

The Controller has disallowed costs for activities that involve the investigation surrounding an adverse comment, and not to obtaining a signature, or acknowledging a refusal to sign. As noted above, the parameters and guidelines do state that "review of circumstances or documentation ... including determination of whether same constitutes an adverse comment,"¹⁰² is included within the activities stated. If the comment is an adverse comment, the Commission found that the notice requirements of Government Code sections 3305 and 3306 do not constitute a new program or higher level of service pursuant to article XIII B, section 6 of the California Constitution.¹⁰³ Thus, the activities to review the circumstances or documentation cannot be read to include the claimed activities of (1) investigating the circumstances surrounding the adverse comment; (2) the preliminary investigation conducted by supervisors, detectives, and the command staff in the area where the complaint was taken; (3) report writing, interviews; or time spent by the areas to investigate the complaint or "1.28" (complaint form) after the preliminary investigation; (4) when the assigned advocate reviews the investigation for status and thoroughness; or (5) the time needed to conduct any additional investigation.¹⁰⁴ These disallowed activities clearly pertain to investigation, which, as stated throughout this analysis, is not a reimbursable activity under the *POBOR* mandate.

⁹⁹ Exhibit B, Controller's Late Comments on the IRC, pages 64-65 (Parameters and Guidelines, corrected August 17, 2000).

¹⁰⁰ Exhibit B, Controller's Late Comments on the IRC, page 65 (Parameters and Guidelines, corrected August 17, 2000).

¹⁰¹ Exhibit B, Controller's Late Comments on the IRC, page 180 (Final Staff Analysis on the Proposed Parameters and Guidelines, July 27, 2000).

¹⁰² Exhibit B, Controller's Late Comments on the IRC, page 65 (Parameters and Guidelines, corrected August 17, 2000, pp. 3-8).

¹⁰³ Exhibit A, IRC, pages 46-47 (Statement of Decision, CSM-4499, Nov. 30, 1999, p. 19).

¹⁰⁴ *Id.*, page 87 (final audit report).

The *POBOR* mandate is very narrow, and as determined by the Commission, local law enforcement agencies were conducting investigations and issuing disciplinary actions before the *POBOR* statutes were enacted, so those activities are not reimbursable.¹⁰⁵ The Commission's *POBOR* Statement of Decision on Reconsideration further clarifies the intended scope of the mandate, especially making clear that the test claim statute does not require an employer to investigate an officer's conduct or place an adverse comment in an officer's personnel file. Because the *POBOR* mandate is about new procedures governing peace officer labor relations, any investigations of misconduct or malfeasance are beyond the scope of the mandate.¹⁰⁶ These decisions are binding on the parties.¹⁰⁷

Based on the foregoing, the Commission finds that the Controller's reduction of costs claimed under the adverse comment component are correct as a matter of law because of the claimed investigative activities that are beyond the scope of the mandate. Moreover, there is no evidence in the record that the Controller's calculation of the costs reduced from the claimant's time study is arbitrary, capricious, or entirely lacking in evidentiary support.

V. Conclusion

Based on the foregoing analysis, the Commission finds that the Controller's reductions of costs claimed are correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. Therefore, the Commission denies this IRC.

¹⁰⁵ Exhibit B, Controller's Late Comments on the IRC, page 171 (Final Staff Analysis on Proposed Parameters and Guidelines, adopted July 27, 2000).

¹⁰⁶ Exhibit A, IRC, pages 29, 64-65 (Statement of Decision on Reconsideration, 05-RL-4499-01, April 26, 2006); see also page 41, where the Commission found that:

The [POBOR] rights are not triggered, however, until the employing agency decides to interrogate an officer, take punitive action against the officer, or place an adverse comment in an officer's personnel file. These initial decisions are not mandated by the state, but are governed by local policy, ordinance, city charter, or a memorandum of understanding.

¹⁰⁷ *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200.

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 March 23, 2016, I served the:

Draft Proposed Decision, Schedule for Comments, and Notice of Hearing

Peace Officers Procedural Bill of Rights, 12-4499-I-02

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

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; Statutes 1990, Chapter 675

Fiscal Years: 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008

City of Los Angeles, 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 March 23, 2016 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/18/16

Claim Number: 12-4499-I-02

Matter: Peace Officer Bill of Rights (POBOR)

Claimant: City of Los Angeles

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.)

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RECEIVED
March 28, 2016
Commission on
State Mandates

BETTY T. YEE
California State Controller

March 25, 2016

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

Re: **Draft Proposed Decision**

Incorrect Reduction Claim

Peace Officers Procedural Bill of Rights, 12-4499-I-02

Government Code sections 3301, 3303, 3304, 3305, and 3306

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; Statutes 1990, Chapter 675

Fiscal Years 2003-2004, 2004-05, 2005-2006, 2006-07, and 2007-08

City of Los Angeles, Claimant

Dear Ms. Halsey:

The State Controller's Office (SCO) has reviewed the Commission on State Mandates' (Commission) draft staff analysis dated March 23, 2016, for the above incorrect reduction claim filed by the City of Los Angeles. We support the Commission's conclusion and recommendation.

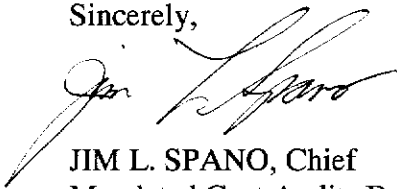
The Commission supported the SCO adjustments related to the following:

- Reduction of salaries and benefits claimed under the category of Administrative Activities, totaling \$2,864,828, plus related indirect costs, is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.
- Reduction of salaries and benefits claimed under the category of Interrogations, totaling \$12,505,118, plus related indirect costs, is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.
- Reduction of salaries and benefits claimed under the category of Adverse Comment, totaling \$11,289,312, plus related indirect costs, is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

Heather Halsey
March 25, 2016
Page 2

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jim L. Spano", written in a cursive style.

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

JLS/ljs

16968

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 March 29, 2016, I served the:

SCO Comments on Draft Proposed Decision

Peace Officers Procedural Bill of Rights, 12-4499-I-02

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

Statutes 1976, Chapter 465; Statutes 1978, Chapters 775, 1173, 1174, and 1178;

Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994;

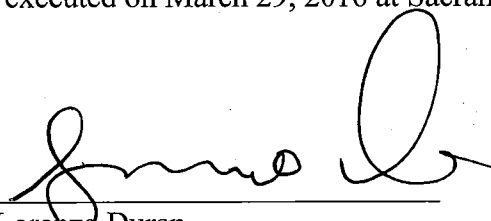
Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; Statutes 1990, Chapter 675

Fiscal Years: 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008

City of Los Angeles, 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 March 29, 2016 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: 3/24/16

Claim Number: 12-4499-I-02

Matter: Peace Officer Bill of Rights (POBOR)

Claimant: City of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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