

# CONTRA COSTA COUNTY

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, 2001 through June 30, 2004*



**JOHN CHIANG**  
California State Controller

March 2007



**JOHN CHIANG**  
**California State Controller**

March 30, 2007

The Honorable Stephen Ybarra  
Auditor-Controller  
Contra Costa County  
625 Court Street, Room 103  
Martinez, CA 94553

Dear Mr. Ybarra:

The State Controller's Office audited the costs claimed by Contra Costa County 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, 2001, through June 30, 2004.

The county claimed \$532,160 (\$533,160 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$40,636 is allowable and \$491,524 is unallowable. The unallowable costs occurred because the county claimed costs that were ineligible for reimbursement, were inadequately documented, or were not for mandate-related cases. The State paid the county \$7. The State will pay allowable costs claimed that exceed the amount paid, totaling \$40,629, contingent upon available appropriations.

This audit identifies \$57,199 of unallowable salary and benefit costs incurred by the Probation Department on its time summaries. The time summaries did not separate time spent on eligible and ineligible activities. We will allow the costs of the eligible portion if the county provides documentation supporting time spent on the eligible activities.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). 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 COSM's Web site, at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

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

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/vb:ams

cc: Marie Rulloda, Chief Accountant  
Contra Costa County  
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 Contra Costa County 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, 2001, through June 30, 2004. The last day of fieldwork was September 14, 2005.

The county claimed \$532,160 (\$533,160 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$40,636 is allowable and \$491,524 is unallowable. The unallowable costs occurred because the county claimed costs that were ineligible for reimbursement, were inadequately documented, or were not for mandate-related cases. The State paid the county \$7. The State will pay allowable costs claimed that exceed the amount paid, totaling \$40,629, 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 (COSM) determined that this legislation imposed a state mandate reimbursable under *Government Code* Section 17561 and adopted the *Statement of Decision*. COSM 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. COSM further determined that activities covered by due process are not reimbursable.

*Parameters and Guidelines* establishes the state mandate and defines reimbursement criteria. COSM adopted the *Parameters and Guidelines* on July 27, 2000, corrected it on August 17, 2000, and further clarified it on December 4, 2006. *Parameters and Guidelines* categorized reimbursable activities in 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.

## **Objective, Scope, and Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the legislatively mandated Peace Officers Procedural Bill of Rights Program for the period of July 1, 2001, through June 30, 2004.

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 the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the county'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, Contra Costa County claimed \$532,160 (\$533,160 less a \$1,000 penalty for filing a late claim) for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that \$40,636 is allowable and \$491,524 is unallowable. The State paid the county \$7. The State will pay allowable costs claimed that exceed the amount paid, totaling \$40,629, contingent upon available appropriations.

This audit identifies \$57,199 of unallowable salary and benefit costs incurred by the Probation Department on its time summaries. The time summaries did not separate time spent on eligible and ineligible activities. We will allow the costs of the eligible portion if the county provides documentation supporting time spent on the eligible activities.

**Views of  
Responsible  
Officials**

We issued a draft audit report on December 20, 2006. We contacted Marie Rulloda, Chief Accountant, by telephone on February 9, 2007. Ms. Rulloda advised us that the county will not be responding to the draft report.

Subsequently, we received a letter dated February 23, 2007, from George M. Lawrence, Contra Costa County Undersheriff, requesting that we consider additional information relating to the Interrogations component of Finding 1.

**Restricted Use**

This report is solely for the information and use of Contra Costa County, 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

## Schedule 1— Summary of Program Costs July 1, 2001, through June 30, 2004

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2001, through June 30, 2002</u>				
Salaries	\$ 97,048	\$ 11,689	\$ (85,359)	Finding 1
Benefits	51,635	5,385	(46,250)	Finding 1
Services and supplies	27,624	—	(27,624)	Finding 2
Total direct costs	176,307	17,074	(159,233)	
Indirect costs	90,790	9,664	(90,126)	Findings 1, 2
Total program costs	<u>\$ 276,097</u>	26,738	<u>\$ (249,359)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 26,738</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Salaries	\$ 53,023	\$ 4,462	\$ (48,561)	Finding 1
Benefits	27,513	1,737	(25,776)	Finding 1
Services and supplies	27,069	—	(27,069)	Finding 2
Travel and training	100	—	(100)	Finding 3
Total direct costs	107,705	6,199	(101,506)	
Indirect costs	8,054	446	(7,608)	Findings 1, 4
Total direct and indirect costs	115,759	6,645	(109,114)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 114,759</u>	5,645	<u>\$ (109,114)</u>	
Less amount paid by the State		(7)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 5,638</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Salaries	\$ 69,248	\$ 5,249	\$ (63,999)	Finding 1
Benefits	36,185	2,479	(33,706)	Finding 1
Services and supplies	25,228	—	(25,228)	Finding 2
Travel and training	100	—	(100)	Finding 3
Total direct costs	130,761	7,728	(123,033)	
Indirect costs	10,543	525	(10,018)	Findings 1, 4
Total program costs	<u>\$ 141,304</u>	8,253	<u>\$ (133,051)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 8,253</u>		

**Schedule 1 (continued)**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>Summary: July 1, 2001, through June 30, 2004</u>				
Salaries	\$ 219,319	\$ 21,400	\$ (197,919)	
Benefits	115,333	9,601	(105,732)	
Services and supplies	79,921	—	(79,921)	
Travel and training	200	—	(200)	
Total direct costs	414,773	31,001	(383,772)	
Indirect costs	118,387	10,635	(107,752)	
Total direct and indirect costs	533,160	41,636	(491,524)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 532,160</u>	40,636	<u>\$ (491,524)</u>	
Less amount paid by the State		(7)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 40,629</u>		
<u>Recap by Cost Component</u>				
Administrative activities	\$ 173,269	\$ 8,192	\$ (165,077)	
Administrative appeal	19,039	—	(19,039)	
Interrogation	276,499	17,447	(259,052)	
Adverse comment	64,353	15,997	(48,356)	
Total direct and indirect costs	533,160	41,636	(491,524)	
Less late penalty	(1,000)	(1,000)	—	
Indirect costs	<u>\$ 532,160</u>	<u>\$ 40,636</u>	<u>\$ (491,524)</u>	

<sup>1</sup> See the Findings and Recommendations section.

# Findings and Recommendations

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

The county claimed \$334,652 in salary and benefit costs and \$102,753 in related indirect costs for the audit period. Salary and benefit costs, totaling \$303,652, were unallowable because the activities claimed were not identified in the *Parameters and Guidelines* as reimbursable costs, were not adequately documented, or were claimed for cases not related to the mandate. Indirect costs from the unallowable costs total \$91,695.

Following is a summary of the claimed, allowable, and unallowable costs for the audit period.

	Claimed Costs	Allowable Costs	Audit Adjustment
Salaries and benefits:			
Administrative activities:			
Sheriff’s Department	\$ 47,320	\$ 6,092	\$ (41,228)
Probation Department	12,811	—	(12,811)
Subtotal	<u>60,131</u>	<u>6,092</u>	<u>(54,039)</u>
Administration appeal:			
Sheriff’s Department	—	—	—
Probation Department	17,308	—	(17,308)
Subtotal	<u>17,308</u>	<u>—</u>	<u>(17,308)</u>
Interrogation:			
Sheriff’s Department	195,594	12,944	(182,650)
Probation Department	10,251	—	(10,251)
Subtotal	<u>205,845</u>	<u>12,944</u>	<u>(192,901)</u>
Adverse comments:			
Sheriff’s Department	34,539	11,964	(22,575)
Probation Department	16,829	—	(16,829)
Subtotal	<u>51,368</u>	<u>11,964</u>	<u>(39,404)</u>
Total salaries and benefits:			
Sheriff’s Department	277,453	31,000	(246,453)
Probation Department	57,199	—	(57,199)
Total salaries and benefits costs	334,652	31,000	(303,652)
Related indirect costs	102,753	11,058	(91,695)
Total	<u>\$ 437,405</u>	<u>\$ 42,058</u>	<u>\$ (395,347)</u>

- Sheriff’s Department Time Study

The Sheriff’s Department conducted a time study in FY 2000-01 to determine the amount of time it took per individual case to perform certain activities related to Administrative Activities, Interrogation, and Adverse Comments. These time increments were used to prepare salary and benefit costs for all three fiscal-year claims under audit. For each claim filed, costs were calculated by applying average time increments for all county personnel who performed the activities included in the time study and multiplying the averages by the number of cases processed during the fiscal year. While the methodology used to record the time increments appears reasonable, the time-study results were flawed because they included time spent performing activities that are not reimbursable under the mandated

program. Most of the time-studied costs are not reimbursable. Accordingly, we reduced claimed hours in order to reflect eligible costs. The ineligible activities included in the time study are discussed under the Administrative Activities, Interrogation, and Adverse Comments sections below.

The table below shows the audit results for the review of the time study.

Activity	Average Number of Minutes		
	Per Time Study	Allowable Per Audit	Difference
Administrative activities:			
Data entry	10	10	—
Initial case review	10	—	(10)
Record keeping	62	37	(25)
Research	25	—	(25)
Document collection	35	—	(35)
Case conference	90	—	(90)
Review completed case	45	—	(45)
Total administrative activities	277	47	(230)
Interrogations*	1,196	—	(1,196)
Adverse comments:			
Data collection and review	26	5	(21)
Report reviews	15	15	—
Corrective counseling	72	—	(72)
Discipline review conference**	315	315	—
Total adverse comments	428	335	(93)
Total	1,901	382	(1,519)

\* Excludes allowable transcriptions of 42 minutes per page, as noted in the table under Interrogation.

\*\* The SCO applied the 315 minutes only to the actual number of conferences held during a fiscal year.

- Probation Department Time Summaries

All of the salaries and benefits costs claimed by the Probation Department for the audit period, totaling \$57,199, are unallowable due to inadequate documentation. The department determined the amount of time spent based on actual employee hours that were recorded within case time summaries. The case time summaries tracked hours spent on various allowable and unallowable activities. None of the department-prepared time summaries separated the amount of time spent on individual activities. Instead, the county estimated the percentages of time spent on each reimbursable component. Therefore, we were unable to separate the amount of time spent on eligible activities from time spent on ineligible activities.

Following are examples of ineligible Probation Department activities claimed by the county.

- Prepare, receive, review complaints
- Interview complainant
- Review circumstances surrounding complaints
- Gather documents
- Prepare investigations and conclusions report

### **Administrative Activities**

For Administrative Activities, the county claimed \$60,131 in salary and benefit costs (\$47,320 by the Sheriff's Department and \$12,811 by the Probation Department) for the audit period. We determined that \$54,039 was unallowable (\$41,228 due to ineligible Sheriff's Department activities and \$12,811 due to inadequate Probation Department documentation).

*Parameters and Guidelines* allows 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 the Police Officers Procedural Bill of Rights (POBOR) cases.

However, the county claimed the following Sheriff's Department activities that are not reimbursable.

- Perform initial case reviews
- Maintain files, file systems, and back-up files
- Provide updates of cases for commanding staff
- Research and document collection by the investigating sergeant
- Hold case conferences to discuss the direction of a case
- Review of completed cases by a lieutenant

For a discussion of unallowable Probation Department activities claimed by the county, see the Probation Department Time Summaries section.

### **Administrative Appeal**

For Administrative Appeal, the county claimed \$17,308 in salary and benefit costs incurred by the Probation Department for the audit period. The costs were not adequately documented, and therefore, were unallowable. For a discussion of unallowable Probation Department activities claimed by the county, see the Probation Department Time Summaries sections.

*Parameters and Guidelines* states that claimants must describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee.

## Interrogation

For Interrogation, the county claimed \$205,845 in salary and benefit costs (\$195,594 by the Sheriff's Department and \$10,251 by the Probation Department) for the audit period. We determined that \$192,901 was unallowable (\$182,650 due to ineligible Sheriff's Department activities and \$10,251 due to inadequate Probation Department documentation).

*Parameters and Guidelines* states that specific identified Interrogation activities are reimbursable 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 during off-duty time if the interrogation could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. Section IV(C), Interrogation, identifies reimbursable activities under compensation and timing of an interrogation, interrogation notice, tape recording of an interrogation, and documents provided to the employee.

*Parameters and Guidelines*, Section IV(C), states that claimants are not eligible for Interrogation activities when an interrogation of a peace officer is in the normal course of duty. It further states, in part:

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.

In reference to compensation and timing of the interrogation pursuant to *Government Code* Section 3303, subdivision (a), the Commission on State Mandates 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 POBAR was enacted.

*Parameters and Guidelines*, Section IV(C), also states that tape recording the interrogation, when the peace officer employee records the interrogation, is reimbursable.

However, the county claimed the following Sheriff's Department activities that are not reimbursable.

- Preparation of questions for the interviews
- Review of interrogation notes by the captain and commander
- Preparation of investigation and conclusion reports
- Contact civilian witnesses
- Conduct of interviews by interrogators
- Interrogation for witnessing or accused officers that occurred during normal duty hours

For a discussion of unallowable Probation Department activities claimed by the county, see the Probation Department Time Summaries section of this report.

The largest adjustments were made under the conducting interrogations activity (Interrogation component). While conducting an interrogation is an allowable activity, costs are reimbursable only for the overtime compensation incurred by the county for the accused peace officer and any peace officer witnesses as a result of their attendance at interrogations that occurred during their off-duty time. The county stated that interrogations are almost always conducted during officers’ normal working hours. While the interrogating officers may be required to incur overtime costs to accommodate these “normal” working schedules, costs claimed for interrogators are not reimbursable under the mandated program. We concluded that none of the 137 cases claimed during the audit period included time spent by accused officers or peace officer witnesses at interrogations that occurred during off-duty hours.

The time study also calculated the average time spent to prepare both case transcriptions and investigation and conclusion reports (Interrogation component). However, time spent preparing investigation and conclusion reports is not an activity that is eligible for reimbursement. Based on information that the county provided for case transcriptions, we were able to determine that it took an average of 42 minutes for sergeants to prepare each page of transcription. We applied this time increment to the actual number of transcription pages within each case. Using this data, we calculated the total number of transcription pages processed for each fiscal year.

While we noted that transcription costs were claimed for each case, many case files included only interrogation summary reports prepared by the interrogator, rather than a transcription of the actual interview. Time spent preparing summary reports is not an allowable activity under the mandated program, and we did not apply the time increment for transcriptions to these reports.

Allowable costs for transcriptions were determined as follows.

<u>Fiscal Year</u>	<u>Transcription Pages</u>	<u>Minutes Per Page</u>	<u>Total Minutes</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Allowable Costs</u>
2001-02	146	42	6,132	102.2	\$ 45.11	\$ 4,610
2002-03	40	42	1,680	28.0	47.23	1,322
2003-04	73	42	3,066	51.1	48.42	2,474
Total						<u>\$ 8,406</u>

In addition, 13 of the 137 cases claimed during the audit period were ineligible for reimbursement of any activities because the cases were actually administrative inquiries, for which no officers were named as an accused, or because the cases were already included in a prior year’s claim.

**Adverse Comment**

For Adverse Comment, the county claimed \$51,368 in salary and benefit costs (\$34,539 by the Sheriff’s Department and \$16,829 by the Probation Department) for the audit period. We determined that \$39,404 was unallowable (\$22,576 due to ineligible Sheriff’s Department activities and \$16,828 due to inadequate Probation Department documentation).

Depending on the circumstances surrounding an Adverse Comment, *Parameters and Guidelines* allows some or all of the following four activities upon receipt of an Adverse Comment: 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 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.

However, the county claimed the following Sheriff’s Department activities that are not reimbursable.

- Corrective counseling activities by various staff
- Data collection and review (finalization of cases, preparing case summary reports, and document-keeping)

For a discussion of unallowable Probation Department activities claimed by the county, see the Probation Department Time Summaries section of this report.

**Summary**

The audit adjustments for salaries and benefits are summarized as follows.

Cost Category	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Sheriff’s Department:				
Salaries	\$ (85,359)	\$ (30,977)	\$ (45,970)	\$ (162,306)
Benefits	(46,250)	(15,100)	(22,797)	(84,147)
Subtotal	<u>(131,609)</u>	<u>(46,077)</u>	<u>(68,767)</u>	<u>(246,453)</u>
Probation Department:				
Salaries	—	(17,584)	(18,029)	(35,613)
Benefits	—	(10,677)	(10,909)	(21,586)
Subtotal	<u>—</u>	<u>(28,261)</u>	<u>(28,938)</u>	<u>(57,199)</u>
Total salaries and benefits costs	(131,609)	(74,338)	(97,705)	(303,652)
Related indirect costs	<u>(74,491)</u>	<u>(7,434)</u>	<u>(9,770)</u>	<u>(91,695)</u>
Audit adjustments	<u>\$ (206,100)</u>	<u>\$ (81,772)</u>	<u>\$ (107,475)</u>	<u>\$ (395,347)</u>

*Parameters and Guidelines* for POBOR, adopted by the COSM on July 27, 2000, defines the criteria for procedural protection for the county’s peace officers.

*Parameters and Guidelines*, Section IV, Reimbursable Activities, outlines specific tasks that are deemed above the due process clause. The Statement of Decision on which *Parameters and Guidelines* was based noted that due process activities were not reimbursable.

*Parameters and Guidelines*, Section VA1, Salaries and Benefits, requires 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.

*Parameters and Guidelines*, Section VI, Supporting Data, requires that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the State-mandated program.

#### Recommendation

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

#### County's Response

The Sheriff has several issues regarding how the auditors interpreted and defined the reimbursement criteria. One of these is that reimbursement was not allowed for a subject officer being interviewed by Internal Affairs unless the subject officer was on overtime. This interpretation did not consider the fact that while this subject officer is being interviewed, a replacement officer was assigned on overtime to fill his assigned post.

Although our response was not sent within the twenty day time period, I would like to go "on record" regarding the contents and conclusion of the audit report and request that our concerns be included in the final report.

#### SCO's Comment

The finding and recommendation remain unchanged. The county did not raise this issue during the course of audit fieldwork. *Parameters and Guidelines* 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. Included in the foregoing is the preparation and review of overtime compensation requests." Therefore, the claimant can be reimbursed for overtime costs incurred when a peace officer is subject to an interrogation during his or her off-duty time. *Parameters and Guidelines* does not allow for reimbursement of overtime costs incurred by a peace officer who is not being interrogated, but is essentially "backfilling" the position of a peace officer who is being interrogated during normal duty hours.

We have other concerns with the county's request. First, the county's claims did not include any overtime costs incurred for peace officers being interrogated during off-duty hours. Instead, the county only

claimed time for performing interrogations, which is not a reimbursable activity per *Parameters and Guidelines*. In addition, the county’s claimed hours were based on a time study it performed in a prior year, and no actual time records were maintained for any of the POBOR cases during the audit period.

**FINDING 2—  
Ineligible services  
and supplies**

The county claimed costs for services and supplies, totaling \$79,921, under Administrative Activities for the audit period. These costs are not reimbursable under the mandated program. The related indirect cost totals \$15,635.

Specifically, the Sheriff’s Department claimed facility lease costs and vehicle maintenance costs that are not allowable activities under the mandated program. The county’s claim for FY 2002-03 also included an addition error of \$100 for services and supplies costs. For FY 2003-04, the Probation Department claimed services and supplies costs of \$100 that were not adequately supported.

The audit adjustments are summarized as follows.

Cost Category	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Sheriff’s Department:				
Facility-lease costs	\$ (16,120)	\$ (16,915)	\$ (17,805)	\$ (50,840)
Vehicle maintenance	(11,504)	(10,054)	(7,323)	(28,881)
Claim addition error	—	(100)	—	(100)
Probation Department:				
Services and supplies	—	—	(100)	(100)
Total services and supplies costs	(27,624)	(27,069)	(25,228)	(79,921)
Related indirect costs	(15,635)	—	—	(15,635)
Audit adjustments	<u>\$ (43,259)</u>	<u>\$ (27,069)</u>	<u>\$ (25,228)</u>	<u>\$ (95,556)</u>

*Parameters and Guidelines* for the POBOR Program allow for reimbursement of actual increased costs incurred in the performance of mandated activities.

Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs and are based on actual direct expenditures that occurred as a result of performing mandated activities.

County’s Response

The county did not respond to the audit finding.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 3—  
Unsupported travel  
and training costs**

The county claimed costs for travel and training within the Probation Department, totaling \$200 for the audit period, under the cost component of Administrative Activities. These costs are unallowable due to inadequate documentation.

The audit adjustments are summarized as follows.

Cost Category	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Travel/training	\$ —	\$ (100)	\$ (100)	\$ (200)

*Parameters and Guidelines* for the POBOR Program allow for reimbursement of actual increased costs incurred in the performance of mandated activities.

Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs and are based on actual direct expenditures that occurred as a result of performing mandated activities.

County’s Response

The county did not respond to the audit finding.

SCO’s Comment

The finding and recommendation remain unchanged.

**FINDING 4—  
Unallowable indirect  
costs claimed**

The county claimed unallowable indirect costs totaling \$421 during the audit period. Unallowable indirect costs occurred because the county erroneously applied the default indirect cost rate of 10% to both salaries and benefits rather than only to salaries in FY 2002-03 and FY 2003-04.

The audit adjustments are summarized as follows.

	Fiscal Year		Total
	2002-03	2003-04	
Allowable benefits costs	\$ 1,736	\$ 2,479	
Unallowable indirect cost rate	× (10)%	× (10)%	
Audit adjustments	\$ (173)	\$ (248)	\$ (421)

*Parameters and Guidelines* state that indirect costs are eligible for reimbursement when allocated in accordance with the provisions of Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*. OMB Circular A-87 provides that an indirect cost rate must be applied to the same distribution basis that was used to calculate the indirect cost rate—in this case, salaries and benefits.

*Parameters and Guidelines* also state that claimants have the option of claiming indirect costs using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate exceeds 10%.

#### Recommendation

We recommend that the county ensure that it is in compliance with the provisions of OMB Circular A-87 and that its indirect cost rate is applied only to the costs that were in the distribution base when the rate was calculated.

We also recommend that the county ensure that it is in compliance with *Parameters and Guidelines* when using the default indirect cost rate in its mandated cost claims.

#### County's Response

The county did not respond to the audit finding.

#### SCO's Comment

The finding and recommendation remain unchanged.

**Attachment—  
County’s Response to  
Draft Audit Report**

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County of Contra Costa  
**Office of the Sheriff**  
Warren E. Rupp  
Sheriff

February 23, 2007

Mr. Jeffrey V. Brownville  
State Controller's Office  
Chief, Division of Audits  
P.O. Box 942850  
Sacramento, CA 94250-5874

RE: SB 90 Peace Officers Procedural Bill of Rights Program (POBOR)

Dear Mr. Brownville:

I am in receipt of your letter dated December 20, 2006 addressed to The Honorable Stephen Ybarra, Auditor-Controller Contra Costa County and the accompanying DRAFT Audit Report titled "Peace Officers Procedure Bill of Rights Program." I apologize for not responding within the 20 day time period as requested in your letter; however, I only became aware of this audit in February this year. I have communicated via voice mail with Mr. Jim Spano, Chief, Compliance Audits Bureau, who informed me that the Auditor-Controller did communicate with him indicating his office would not be responding to your draft report. This state mandate required the Office of the Sheriff to comply with these requirements; therefore, it was the Office of the Sheriff that incurred the additional expenses not the Auditor-Controller's office.

The Sheriff has several issues regarding how the auditors interpreted and defined the reimbursement criteria. One of these is that reimbursement was not allowed for a subject officer being interviewed by Internal Affairs unless the subject officer was on overtime. This interpretation did not consider the fact that while this subject officer is being interviewed, a replacement officer was assigned on overtime to fill his assigned post.

Although our response was not sent within the twenty day time period, I would like to go "on record" regarding the contents and conclusion of the audit report and request that our concerns be included in the final report.

Sincerely,

George M. Lawrence, Undersheriff

GLM:lk

Cc: **Jim L. Spano**, Chief, Compliance Audits Bureau, State Controller's Office  
The Honorable Stephen Ybarra, Auditor-Controller Contra Costa County

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