

CITY OF RIVERSIDE

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; Chapter 675, Statutes of 1990

July 1, 2001, through June 30, 2005



JOHN CHIANG
California State Controller

April 2008



JOHN CHIANG
California State Controller

April 23, 2008

Paul Sundeen
Assistant City Manager/Chief
Financial Officer/Treasurer
City of Riverside
3900 Main Street
Riverside, CA 92522

Dear Mr. Sundeen:

The State Controller's Office audited the costs claimed by the City of Riverside 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; Chapter 675, Statutes of 1990) for the period of July 1, 2001, through June 30, 2005.

The city claimed \$924,052 (\$926,052 less a \$2,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$464,118 is allowable and \$459,934 is unallowable. The unallowable costs resulted because the city claimed reimbursement for ineligible activities and unsupported costs. The State made no payments to the city. Allowable costs claimed exceed the amount paid by \$464,118.

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 CSM's Web site, at 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.

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: 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 Riverside 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; Chapter 675, Statutes of 1990) for the period of July 1, 2001, through June 30, 2005.

The city claimed \$924,052 (\$926,052 less a \$2,000 penalty for filing late claims) for the mandated program. Our audit disclosed that \$464,118 is allowable and \$459,934 is unallowable. The unallowable costs resulted because the city claimed reimbursement for ineligible activities and unsupported costs. The State made no payments to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling \$464,118, 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 required 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 XII B, section 6, and Government Code section 175144. The CSM further defined that activities covered by due process are not reimbursable.

The program's 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 categorized 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, to assist local agencies in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Peace Officer Procedural Bill of Rights Program for the period of July 1, 2001, through June 30, 2005.

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

We asked the city's representative to submit a written representation letter regarding the city's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the city did not submit a representation letter.

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 Riverside claimed \$924,052 (\$926,052 less a \$2,000 penalty for filing late claims) for costs of the Peace Officer Procedural Bill of Rights Program. Our audit disclosed that \$464,118 is allowable and \$459,934 is unallowable.

The State made no payments to the city. Our audit disclosed that \$464,118 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$464,118, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on February 20, 2008. We contacted Terri A. Willoughby, Controller, by e-mail on March 26, 2008. Ms. Willoughby declined to respond to the draft report.

Restricted Use

This report is solely for the information and use of the City of Riverside, 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

April 23, 2008

**Schedule 1—
Summary of Program Costs
July 1, 2001, through June 30, 2005**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2001, through June 30, 2002</u>				
Direct costs:				
Salaries	\$ 146,449	\$ 45,084	\$ (101,365)	Finding 1
Benefits	36,553	11,316	(25,237)	Finding 1
Services and supplies	34,196	—	(34,196)	Finding 2
Total direct costs	217,198	56,400	(160,798)	
Indirect costs	35,671	11,280	(24,391)	Finding 1
Total direct and indirect costs	252,869	67,680	(185,189)	
Less late filing penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 251,869</u>	66,680	<u>\$ (185,189)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 66,680</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs:				
Salaries	\$ 142,528	\$ 57,163	\$ (85,365)	Finding 1
Benefits	39,308	16,178	(23,130)	Finding 1
Services and supplies	54,250	—	(54,250)	Finding 2
Total direct costs	236,086	73,341	(162,745)	
Indirect costs	30,921	13,421	(17,500)	Finding 1
Total program costs	<u>\$ 267,007</u>	86,762	<u>\$ (180,245)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 86,762</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries	\$ 102,223	\$ 67,079	\$ (35,144)	Finding 1
Benefits	38,235	25,087	(13,148)	Finding 1
Travel and training	32,129	—	(32,129)	Finding 3
Total direct costs	172,587	92,166	(80,421)	
Indirect costs	33,324	21,867	(11,457)	Finding 1
Total direct and indirect costs	205,911	114,033	(91,878)	
Less late filing penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 204,911</u>	113,033	<u>\$ (91,878)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 113,033</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 101,164	\$ 109,741	\$ 8,577	Finding 1
Benefits	45,923	56,165	10,242	Finding 1
Services and supplies	29,394	4,910	(24,484)	Finding 2
Total direct costs	176,481	170,816	(5,665)	
Indirect costs	23,784	26,827	3,043	Finding 1
Total program costs	<u>\$ 200,265</u>	197,643	<u>\$ (2,622)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 197,643</u>		
<u>Summary: July 1, 2001, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 492,364	\$ 279,067	\$ (213,297)	
Benefits	160,019	108,746	(51,273)	
Services and supplies	117,840	4,910	(112,930)	
Travel and training	32,129	—	(32,129)	
Total direct costs	802,352	392,723	(409,629)	
Indirect costs	123,700	73,395	(50,305)	
Total direct and indirect costs	926,052	466,118	(459,934)	
Less late filing penalty	(2,000)	(2,000)	—	
Total program costs	<u>\$ 924,052</u>	464,118	<u>\$ (459,934)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 464,118</u>		
<u>Recap by Component</u>				
Administrative activities	\$ 140,928	\$ 111,418	\$ (29,510)	
Administrative appeals	51,815	—	(51,815)	
Interrogations	588,333	112,195	(476,138)	
Adverse comments	144,976	242,505	97,529	
Subtotal	926,052	466,118	(459,934)	
Less late filing penalty	(2,000)	(2,000)	—	
Total program costs	<u>\$ 924,052</u>	<u>\$ 464,118</u>	<u>\$ (459,934)</u>	

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Unallowable salaries
and benefits**

The city claimed \$652,383 in salaries and benefits and \$123,700 in related indirect costs for the audit period. All of the costs claimed were initially unallowable because the activities claimed were either not identified in the parameters and guidelines as reimbursable costs (\$421,055), were based on estimated costs instead of actual costs (\$210,755), or were not supported (\$20,573).

The city requested and we agreed that the city be allowed to perform a time study to recapture allowable costs. Based on the time study results, allowable salaries and benefits total \$387,813. Related indirect costs totaled \$73,395. As a result, unallowable costs total \$264,570 and related indirect costs totaled \$50,305.

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

	Claimed Costs	Allowable Costs	Audit Adjustment
Salaries and benefits:			
Administrative Activities:			
Police Department	\$ 57,389	\$ 93,237	\$ 35,848
Community Police Review Commission (CPRC)	7,843	—	(7,843)
Total Administrative Activities	<u>65,232</u>	<u>93,237</u>	<u>28,005</u>
Interrogations:			
Police Department	491,740	90,320	(401,420)
Total Interrogations	<u>491,740</u>	<u>90,320</u>	<u>(401,420)</u>
Adverse Comment:			
Police Department	72,289	204,256	131,967
CPRC	23,122	—	(23,122)
Total Adverse Comment	<u>95,411</u>	<u>204,256</u>	<u>108,845</u>
Total salaries and benefits	652,383	387,813	(264,570)
Related indirect costs	123,700	73,395	(50,305)
Total	<u>\$ 776,083</u>	<u>\$ 461,208</u>	<u>\$ (314,875)</u>
<u>Recap by Department</u>			
Police Department	\$ 742,602	\$ 461,208	\$ (281,394)
CPRC	33,481	—	(33,481)
Total	<u>\$ 776,083</u>	<u>\$ 461,208</u>	<u>\$ (314,875)</u>

Administrative Activities

For the Administrative Activities cost component, the city claimed \$65,232 in salaries and benefits (\$57,389 by the Police Department and \$7,843 by the Community Police Review Commission (CPRC)) for the audit period. We initially determined that none of the costs claimed were allowable because the city claimed ineligible activities (\$36,236 for the Police Department and \$7,843 for CPRC) and unsupported Police Department activities (\$20,573), and claimed estimated Police Department activities (\$580).

However, we allowed the city to perform a time study. Based on the time study results, we determined that \$93,237 is allowable for the Police Department and none of the costs is allowable for CPRC.

The program's parameters and guidelines allow reimbursement for the following ongoing 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 of the Peace Officers Procedural Bill of Rights (POBOR) cases.

Training

We determined that \$36,236 claimed for training sessions attended by Police Department personnel was unallowable (\$22,056 for FY 2001-02, \$9,844 for FY 2002-03, and \$4,336 for FY 2003-04). None of the training sessions included in the city's claim were specifically tailored to the requirements of the mandate. City personnel believe that at least 50% of the training sessions covered topics directly related to the mandate. While we concur that the training sessions certainly covered topics related to the mandate, we cannot reasonably allocate any specific percentage of allowable training costs based on the documentation of the training sessions provided by the city.

For example, the city claimed \$25,287 for Police Department personnel to attend training sessions offered by the Office of Internal Affairs (\$21,263 for FY 2001-02 and \$4,024 for FY 2002-03) and \$1,606 for a lieutenant to prepare the training class materials in FY 2001-02 (\$793) and 2002-03 (\$813). The training agenda included discussion of the new personnel complaint policy, new internal affairs forms, the Conduct and Performance Manual for internal affairs investigations, legal updates, and the department's Early Warning System. This training appears to consist of basic staff updates regarding newly implemented procedures within the department and was not specifically related to the requirements of the mandate.

The city also claimed \$7,716 for Police Department personnel to attend, in both FY 2001-02 and FY 2002-03, a three-day conference in Las Vegas called "Discipline and Internal Investigations for Law Enforcement, Public Safety and Corrections." The conference discussed disciplinary procedures and investigations, rules of efficiency, discrimination issues and ethics related to discipline, employee disciplinary rights, and discipline hearings. This training appears to be specific to general law enforcement procedural issues and was not specifically related to the requirements of the mandate. If mandate-related information was discussed, we could not reasonably be determine what percentage of the training related to the mandate.

The city also claimed \$1,627 for Police Department personnel to attend, in April 2003, a three-day conference in Las Vegas called "Rights of Police Officers." The conference dealt with collective bargaining issues for law enforcement officers; the Fair Labor Standards Act; the standards of discipline and due process, freedom of speech, and the right to privacy; and Section 1983 case liability. We determined that the course contents addressed procedural requirements that were already provided to public employees under the due process clause of the United States and California constitutions, and that these costs were not imposed on the city by the mandated program. If mandate-related information was discussed, we could not reasonably determine what percentage of the training related to the mandate.

Updating the Status of POBOR Cases

We determined that unallowable costs totaling \$8,423 were claimed during the audit period (\$7,843 by CPRC and \$580 by the Police Department) for the administrative activity of updating the status of POBOR cases.

The city claimed \$7,843 (\$1,214 for FY 2001-02 and \$6,629 for FY 2002-03) for an administrative clerk at CPRC to receive and process investigation reports, review cases and write synopses, finalize the synopses, send the findings to Internal Affairs, transfer taped information to CDs, and type memos to the CPRC Commissioners. However, these activities were not performed to update the status of the POBOR cases and are therefore unallowable.

The city also claimed \$580 for FY 2004-05 for a Police Department administrative clerk to log complaints into the department's database for tracking and to route the complaint to internal affairs. This activity is implementing existing due-process procedural requirements and is not reimbursable. Reimbursement is limited to tracking the procedural status of the POBOR cases and does not include logging complaints received by the department into a database.

Developing or Updating Manuals

We determined that unallowable costs totaling \$20,573 were claimed during the audit period for the administrative activity of updating Police Department procedural manuals.

Specifically, the city claimed \$20,573 in FY 2002-03 for a sergeant to revise, update, and provide copies of Internal Affairs' Performance Manuals to all supervising personnel. However, the city did not provide any source documents (such as time record sheets or individual activity logs) to validate the employees' hours charged. The parameters and guidelines Section V, Supporting Documentation, requires that claimants "identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the *actual time* [emphasis added] devoted to each reimbursable activity by each employee."

An exit conference was held on June 19, 2007. During the exit conference, we agreed that the city could be reimbursed for the time spent discussing the procedural status of all POBOR cases at its Internal Affairs weekly meeting. A lieutenant in Internal Affairs stated that, at each meeting, each complaint is discussed with staff regarding the timeframe/status issue, rights protection, issues involving representation, and issues with scheduling of interviews with the subject officers and their representation.

Following the exit conference, the city provided desk calendars supporting 127 hours per year spent at the weekly meetings by the captain and lieutenant discussing the procedural status of all POBOR cases. Accordingly, allowable costs totaled \$93,237 for time spent performing this activity.

Interrogations

The city claimed \$491,740 in salaries and benefits for the Police Department to conduct interrogations during the audit period (\$139,963 for FY 2001-02, \$117,487 for FY 2002-03, \$121,957 for FY 2003-04, and \$112,333 for FY 2004-05). We initially determined that none of the costs claimed were allowable (\$353,854 due to ineligible Police Department activities and \$137,886 due to estimated Police Department activities). However, we allowed the city to perform a time study. Based on the time study results, allowable costs totaled \$90,320 (\$8,512 for FY 2001-02, \$13,545 for FY 2002-03, \$23,109 for FY 2003-04, and \$45,154 for FY 2004-05).

The parameters and guidelines allow reimbursement for the following ongoing activities:

- Compensating the peace officer for interrogations occurring during off-duty time, when required by the seriousness of the investigation;
- Providing the peace officer prior notice regarding the interrogation;
- Tape recording the interrogation, if the subject also records it;
- Providing the subject access to the tape if the interrogation is held prior to certain further proceedings; and
- Producing transcribed copies of notes of the interrogation and copies of reports or complaints that are not confidential, when requested by the subject.

Ineligible Activities

The city claimed \$353,854 (\$113,328 for FY 2001-02, \$94,058 for FY 2002-03, \$101,318 for FY 2003-04, and \$45,150 for FY 2004-05) for a sergeant to conduct interrogations and prepare post interrogation summaries. Under the mandated program, reimbursement is limited to overtime pay for the peace officer subjects or witnesses when required by the seriousness of the investigation. Conducting interrogations and preparing post interrogation summaries merely implement the existing procedural federal due process requirements and are not identified in the parameters and guidelines as reimbursable costs.

Estimated Costs

The city claimed \$137,886 for the following estimated activities:

- Transcription costs: \$52,127 in FY 2004-05
- Notice of interrogation costs: \$43,119 (\$10,303 in FY 2001-02, \$8,551 in FY 2002-03, \$9,212 in FY 2003-04, and \$15,053 in FY 2004-05)
- Peace officer subject/witness interrogations: \$42,640 (\$16,332 in FY 2001-02, \$14,878 in FY 2002-03, and \$11,430 in FY 2003-04)

Even though the activities performed are reimbursable under the mandated program, the parameters and guidelines Section V, Claim Preparation and Submission, require that *actual time* [emphasis added] devoted to each reimbursable activity be identified. Therefore, estimated costs are unallowable.

We originally discussed this audit finding with the city during audit fieldwork. It was agreed that the city would perform a time study to determine allowable costs for preparation and presentation of the notice of interrogation.

The city's time study determined that it took a sergeant 73.9 minutes to review the complaint and other documents and to prepare and present the notice of interrogation to the peace officer subject/witness. In addition, the time study revealed that it took the peace officer subject/witness 29.5 minutes to read and sign the notice of interrogation. In addition, because the city has so many POBOR cases, it performed a "witness count sample" to determine the average number of subjects and witnesses per POBOR case. Based on the time study results, allowable costs totaled \$90,320 for providing and presenting peace officers prior notice regarding an interrogation.

Adverse Comment

For the Adverse Comment cost component, the city claimed \$95,411 in salaries and benefits (\$72,289 by the Police Department and \$23,122 by the Community Police Review Commission) during the audit period. We determined that none of the costs claimed were allowable (\$72,289 due to estimated Police Department activities and \$23,122 due to ineligible Community Police Review Commission activities). However, we allowed the city to perform a time study. Based on the time study results, we determined that allowable Police Department costs totaled \$204,256.

Depending on the circumstances surrounding an adverse comment, the parameters and guidelines, Section IV(D), Adverse Comment, allow reimbursement for some or all of the following four 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 on the document the subject's refusal to sign the adverse comment and obtaining the signature or initials of the subject 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.

Police Department

The city claimed \$72,289 for the following estimated activities:

- Estimated lieutenant review costs: \$30,502 (\$10,654 for FY 2001-02, \$8,573 for FY 2002-03, and \$11,275 for FY 2003-04)
- Division review of circumstances surrounding an adverse comment: \$19,631 for FY 2004-05
- Adverse Comment costs for sustained cases: \$8,536 for FY 2004-05
- Estimated sergeant review costs: \$6,809 (\$2,119 for FY 2001-02, \$1,800 for FY 2002-03, and \$2,890 for FY 2003-04)
- Adverse Comment costs for not-sustained, unfounded and exonerated cases: \$6,006 for FY 2004-05
- Estimated administrative clerk costs: \$805 (\$380 for FY 2001-02 and \$425 for FY 2002-03)

Even though the activities performed are reimbursable, the parameters and guidelines Section V, Claim Preparation and Submission, requires that the *actual time* [emphasis added] devoted to each reimbursable activity be identified. Therefore, estimated costs are unallowable.

We discussed this audit finding with the city during audit fieldwork. The city agreed to perform a time study to determine reimbursable costs for the review and preparation of an adverse comment document.

The city's time study determined that it took a lieutenant 1.5 hours to prepare and review the circumstances of an adverse comment document; took a captain 2.25 hours to review the circumstances of the adverse comment with internal affairs staff, and 30 minutes to present the peace officer subject with the adverse comment document. The city also performed a "subject count sample" to determine the average number of subject officers receiving an adverse comment document. Based on the time study results, allowable Police Department costs totaled \$204,256 for adverse comment activities.

Community Police Review Commission

The city claimed \$23,122 (\$6,617 for FY 2001-02 and \$16,505 for FY 2002-03) for the Executive Director of CPRC to review the Internal Affairs case files, listen to the taped interrogations, and write synopses of cases.

We determined that CPRC was ineligible to claim costs under the Adverse Comment cost component. In our opinion, an independent review commission established by city ordinance cannot be considered as part of the command staff of the city's Police Department. It is apparent from the documentation provided by the city that CPRC is an advisory agency that is independent, by design, from the normal command structure of the city's Police Department. It is on this basis that we determined that costs claimed by CRPC under the cost category of Adverse Comment are unallowable. In addition, documentation about CPRC provided by the city also noted that "The Police Chief has the sole responsibility for discipline. Other than issuing a "Sustained" recommendation, the Commission has no role in the disciplinary process."

Summary

The following table summarizes the overstated costs by fiscal year:

Cost Category	Fiscal Year				Total
	2001-02	2002-03	2003-04	2004-05	
Salaries and benefits:					
Police Department	\$(118,771)	\$(85,362)	\$(48,292)	\$18,819	\$(233,606)
CPRC	(7,831)	(23,133)	—	—	(30,964)
Subtotal	(126,602)	(108,495)	(48,292)	18,819	(264,570)
Related indirect costs	(24,391)	(17,500)	(11,457)	3,043	(50,305)
Audit adjustment	<u>\$(150,993)</u>	<u>\$(125,995)</u>	<u>\$(59,749)</u>	<u>\$21,862</u>	<u>\$(314,875)</u>

The parameters and guidelines for POBOR, adopted by the CSM on July 27, 2000, define the criteria for procedural protection for the city's peace officers.

The parameters and guidelines, Section IV, Reimbursable Activities, outline specific tasks that are deemed above the due process clause. 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, 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 city ensure that claimed costs include only eligible costs and that the claimed costs are based on actual costs that are properly supported.

City’s Response

The city did not respond to the audit finding.

**FINDING 2—
Unallowable services
and supplies**

The city claimed \$117,840 in services and supplies for the audit period. All of the costs claimed were initially unallowable because the activities claimed were not identified in the parameters and guidelines as reimbursable costs (\$66,025) or were not supported (\$51,815). Following the audit exit conference, however, the city provided additional documentation supporting allowable costs in the amount of \$4,910. As a result, unallowable costs total \$112,930.

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

	<u>Claimed Costs</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
<u>Services and Supplies</u>			
Administrative Activities:			
Community Police Review Commission (CPRC)	\$ 29,394	\$ —	\$ (29,394)
Police Department	2,435	—	(2,435)
Total Administrative Activities	<u>31,829</u>	<u>—</u>	<u>(31,829)</u>
Interrogations:			
Police Department	—	4,910	4,910
Total Interrogations	<u>—</u>	<u>4,910</u>	<u>4,910</u>
Administrative Appeals:			
Police Department	51,815	—	(51,815)
Total Administrative Appeals	<u>51,815</u>	<u>—</u>	<u>(51,815)</u>
Adverse Comment:			
CPRC	34,196	—	(34,196)
Total Adverse Comments	<u>34,196</u>	<u>—</u>	<u>(34,196)</u>
Total	<u>\$ 117,840</u>	<u>\$ 4,910</u>	<u>\$ (112,930)</u>
<u>Recap by Department</u>			
Police Department	\$ 54,250	\$ 4,910	\$ (49,340)
CPRC	63,590	—	(63,590)
Total	<u>\$ 117,840</u>	<u>\$ 4,910</u>	<u>\$ (112,930)</u>

Administrative Activities

For the Administrative Activities cost component, the city claimed \$31,829 in services and supplies (\$2,435 by the Police Department and \$29,394 by the CPRC) for the audit period. We determined that none of the costs claimed are allowable (\$2,435 due to ineligible Police Department activities and \$29,394 due to ineligible CPRC activities).

Training

The city claimed \$1,564 for conference fees and related travel costs for Police Department personnel to attend, in December 2002, a three-day conference in Las Vegas, called “Discipline and Internal Investigations for Law Enforcement, Public Safety and Corrections”. The city also claimed \$871 for conference fees and related travel costs for Police Department personnel to attend, in April 2004, a three-day conference in Las Vegas called the “Rights of Police Officers.” As noted in Finding 1, the conferences either addressed procedural requirements that were already provided to public employees under legal due process and were not costs imposed on the city by the mandated program or were specific to general law enforcement procedural issues and were not specifically related to the requirements of the mandate. If mandate-related information was discussed, we could not reasonably determine what percentage of the training related to the mandate.

Updating the Status of POBOR Cases

For FY 2004-05, the city claimed \$9,440 for CPRC’s Senior Office Specialist for general administrative activities such as receiving and processing a field training manual; revising a draft report to the commissioners; drafting and sending letters to subject officers; reviewing Internal Affairs cases and supplemental information and writing, editing, and finalizing case synopses; and converting tape recordings to MP3 format and copying to compact discs. The city also claimed \$19,954 for CPRC’s Executive Director for general administrative activities such as drafting letters to subject officers, sending e-mails regarding cases to the City Attorney, attending a special meeting regarding a subpoena for a police officer, writing case synopses, and reviewing case supplemental information. We determined that none of these activities were related to updating the status of the POBOR cases.

Interrogations

For the Interrogations cost component, the city did not claim any costs for services and supplies. Following the exit conference, the city provided copies of invoices for transcription services in the amount of \$4,910. These costs were determined to be allowable.

Administrative Appeals

For the Administrative Appeals cost component, the city claimed \$51,815 in services and supplies for the audit period. We determined that none of the costs claimed are allowable because the Police Department activities are unsupported.

The city claimed \$51,815 for FY 2002-03 for attorney fees, but would not disclose either the employee’s classification or the disciplinary action imposed that resulted in peace officers filing administrative appeals. The city was concerned that disclosure of this information would compromise the confidential nature of the applicable cases.

The parameters and guidelines allow reimbursement for providing the opportunity for, and the conduct of, an administrative appeal for the following disciplinary actions:

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

Included in the foregoing are the preparation and review of 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.

In addition, the parameters and guidelines, Section VI, Supporting Data, require that all costs 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.

Adverse Comment

For the Adverse Comment cost component, the city claimed \$34,196 in services and supplies for the audit period. We determined that none of the costs are allowable because the CPRC activities are ineligible.

The city claimed \$34,196 for FY 2001-02 for CPRC to hire a private investigation firm to perform independent case reviews. The firm reviewed the internal affairs case files, listened to taped interrogations, spoke to witnesses, and prepared written reports for the CPRC commissioners. We determined that CPRC cannot claim costs under the Adverse Comment cost component because it is not part of the command staff of the city's Police Department. In addition, the activities outlined above are not identified in the parameters and guidelines as reimbursable costs.

Depending on the circumstances surrounding an adverse comment, the parameters and guidelines allow 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.

Included in the foregoing are review of circumstances or documentation leading to adverse comment by the 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.

Summary

The following table summarizes the overstated costs by fiscal year:

Cost Category	Fiscal Year				Total
	2001-02	2002-03	2003-04	2004-05	
Services and Supplies:					
Police Department	\$ —	\$ (54,250)	\$ —	\$ 4,910	\$ (49,340)
CPRC	(34,196)	—	—	(29,394)	(63,590)
Audit adjustment	<u>\$(34,196)</u>	<u>\$(54,250)</u>	<u>\$ —</u>	<u>\$(24,484)</u>	<u>\$(112,930)</u>

Recommendation

We recommend that the city ensure that claimed costs include only eligible costs that are properly supported.

City’s Response

The city did not respond to the audit finding.

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

The city claimed \$32,129 in travel and training costs under the cost component of Administrative Activities during the audit period. All of the costs claimed were unallowable because the activities claimed were not identified in the parameters and guidelines as reimbursable costs.

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

Cost Category	Claimed Costs	Allowable Costs	Audit Adjustment
Administrative Activities:			
PRC	\$ 26,389	\$ —	\$ (26,389)
Police Department	5,740	—	(5,740)
Total	<u>\$ 32,129</u>	<u>\$ —</u>	<u>\$ (32,129)</u>

For the Administrative Activities cost component, the city claimed \$32,129 in travel and training costs (\$26,389 by CPRC and \$5,740 by the Police Department) for the audit period. We determined that none of the costs claimed are allowable (\$26,389 due to ineligible CPRC activities and \$5,740 due to ineligible Police Department activities).

Police Department

The city claimed \$3,646 for Police Department reimbursement of the City Attorney's attendance, in April 2004, at a three-day conference in Las Vegas called the "Rights of Police Officers." In addition, the city claimed \$2,094 for two Police Department personnel to attend, in December 2003, a three-day conference called "Discipline and Internal Investigations for law Enforcement, Public Safety and Corrections." As noted in Findings 1 and 2, the conferences either addressed procedural requirements that were already provided to public employees under legal due process and were costs not imposed on the city by the mandated program, or were specific to general law enforcement procedural issues and were not specifically related to the requirements of the mandate. If mandate-related information was discussed, we could not reasonably determine what percentage of the training related to the mandate.

CPRC

The city inappropriately claimed \$9,145 for FY 2003-04 for CPRC's Senior Office Specialist and \$16,448 for the Executive Director under Travel and Training for salaries and benefits incurred for general administrative activities such as receiving and processing criminal reports; reviewing Internal Affairs cases; listening to taped interrogations; converting audio recordings to MP3 format and copying to a compact disc; processing and reprint letters; and writing, editing, and finalizing case synopses for the CPRC commissioners. While we determined that these activities should have been claimed under salaries and benefits, we also determined that the costs claimed did not relate to the mandated program and are therefore unallowable.

In addition, the city claimed \$796 for FY 2003-04 for travel costs incurred for six CPRC board members to attend a three-day NACOLE conference. The conference offered workshops discussing force and excessive force, justice post-9/11, mediation in oversight, insights on a serious police misconduct case, success in civilian oversight, civilian review of disciplinary cases, interviewing tough witnesses, and a force applied case study. The city claimed only 20% of the conference costs. However, if mandate-related information was discussed, we could not reasonably determine what percentage of the training related to the mandate.

The parameters and guidelines, Section IV(A), Reimbursable Activities–Administrative Activities, state that the following activities are reimbursable:

- 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 of the POBOR cases.

The parameters and guidelines, Section V(5), Supporting Documentation–Training, state that the cost of training an employee to perform the mandated activities is eligible for reimbursement.

Recommendation

We recommend that the city ensure that claimed costs include only eligible costs.

City's Response

The city did not respond to the audit finding.

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