

RIVERSIDE 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, 2002, through June 30, 2005



JOHN CHIANG
California State Controller

April 2008



JOHN CHIANG
California State Controller

April 23, 2008

The Honorable Robert E. Byrd
Auditor-Controller
Riverside County
4080 Lemon Street, 3rd Floor
County Administration Center
Riverside, CA 92502-1326

Dear Mr. Byrd:

The State Controller's Office audited the costs claimed by Riverside 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, 2002, through June 30, 2005.

The county claimed \$2,064,236 for the mandated program. Our audit disclosed that \$711,922 is allowable and \$1,352,314 is unallowable. The unallowable costs resulted primarily because the county claimed ineligible costs. The State paid the county \$21. The State will pay allowable costs claimed that exceed the amount paid, totaling \$711,901, 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 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/sk

cc: Dale Mangram, Senior Accountant
Auditor-Controller's Office
Riverside County
Todd Jerue, Program Budget Manager
Corrections and General Government
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Carla Castaneda
Principal Program Budget Analyst
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Riverside 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, 2002, through June 30, 2005.

The county claimed \$2,064,236 for the mandated program. Our audit disclosed that \$711,922 is allowable and \$1,352,314 is unallowable. The unallowable costs resulted primarily because the county claimed ineligible costs. The State paid the county \$21. The State will pay allowable costs claimed that exceed the amount paid, totaling \$711,901, 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.

**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, 2002, 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 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, Riverside County claimed \$2,064,236 for costs of the POBOR Program. Our audit disclosed that \$711,922 is allowable and \$1,352,314 is unallowable.

For the fiscal year (FY) 2002-03 claim, the State paid the county \$21. Our audit disclosed that \$302,367 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$302,346, contingent upon available appropriations.

For the FY 2003-04 claim, the State made no payments to the county. Our audit disclosed that \$180,384 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$180,384, contingent upon available appropriations.

For the FY 2004-05 claim, the State did not pay the county. Our audit disclosed that \$229,171 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$229,171, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft report on January 23, 2008. We contacted Dale Mangram, Senior Accountant, by e-mail on February 21, 2008. Mr. Mangram responded via e-mail, requesting a 30-day extension in which the county might prepare a response to the draft report. We granted an extension to respond until March 14, 2008. We contacted Mr. Mangram by e-mail on March 14, 2008. The county stated that it would not be issuing a response to the draft report.

Restricted Use

This report is solely for the information and use of Riverside 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

April 23, 2008

**Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2005**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
Salaries	\$ 389,604	\$ 137,763	\$ (251,841)	Finding 1
Benefits	135,972	48,080	(87,892)	Finding 1
Total direct costs	525,576	185,843	(339,733)	
Indirect costs	329,535	116,524	(213,011)	Finding 1
Total program costs	<u>\$ 855,111</u>	302,367	<u>\$ (552,744)</u>	
Less amount paid by the State		(21)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 302,346</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Salaries	\$ 307,424	\$ 89,655	\$ (217,769)	Finding 1, 2
Benefits	123,798	30,685	(93,113)	Finding 1, 2
Total direct costs	431,222	120,340	(310,882)	
Indirect costs	179,689	60,044	(119,645)	Finding 1, 2, 3
Total program costs	<u>\$ 610,911</u>	180,384	<u>\$ (430,527)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 180,384</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Salaries	\$ 318,861	\$ 122,687	\$ (196,174)	Finding 1
Benefits	144,959	55,318	(89,641)	Finding 1
Total direct costs	463,820	178,005	(285,815)	
Indirect costs	134,394	51,166	(83,228)	Finding 1
Total program costs	<u>\$ 598,214</u>	229,171	<u>\$ (369,043)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 229,171</u>		
<u>Summary: July 1, 2002, through June 30, 2005</u>				
Salaries	\$ 1,015,889	\$ 350,105	\$ (665,784)	
Benefits	404,729	134,083	(270,646)	
Total direct costs	1,420,618	484,188	(936,430)	
Indirect costs	643,618	227,734	(415,884)	
Total program costs	<u>\$ 2,064,236</u>	711,922	<u>\$ (1,352,314)</u>	
Less amount paid by the State		(21)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 711,901</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary by Cost Component</u>				
Administrative Activities	\$ 41,971	\$ 43,412	\$ 1,441	
Interrogation	1,061,237	344,460	(716,777)	
Adverse Comment	961,028	324,050	(636,978)	
Total program costs	<u>\$ 2,064,236</u>	<u>\$ 711,922</u>	<u>\$(1,352,314)</u>	

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Overstated salaries
and benefits**

The county claimed unallowable salaries and benefits totaling \$927,506 for the audit period because the activities claimed are not identified as reimbursable costs in the program’s parameters and guidelines. Related indirect costs total \$422,039. For each fiscal year, the county claimed costs for activities that did not exceed the duties of due process of law and therefore did not impose increased costs as a result of compliance with the mandate. These costs are ineligible for reimbursement.

The following table summarizes the audit adjustment by cost component:

	<u>Claimed Costs</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
Salaries and benefits:			
Administrative Activities	\$ 29,578	\$ 29,578	\$ —
Interrogation	745,387	250,872	(494,515)
Adverse Comment	<u>645,653</u>	<u>212,662</u>	<u>(432,991)</u>
Subtotal	1,420,618	493,112	(927,506)
Indirect costs	<u>643,618</u>	<u>221,579</u>	<u>(422,039)</u>
Total	<u>\$ 2,064,236</u>	<u>\$ 714,691</u>	<u>\$(1,349,545)</u>

Administrative Activities

The Sheriff’s Department claimed \$29,578 in salaries and benefits during the audit period under the Administrative Activities cost component. Related indirect costs totaled \$12,394. Claimed amounts included costs for commanding a staff review of recommended findings in FY 2003-04 (this reimbursable activity is generally claimed under the Adverse Comment cost component). We determined that all costs claimed were allowable and we made no audit adjustments to this cost category.

Interrogation

The Sheriff’s Department claimed \$745,387 in salaries and benefits during the audit period under the Interrogations cost component. Related indirect costs total \$315,849. We determined that \$494,515 is unallowable because the department claimed unallowable activities. Related unallowable indirect costs totaled \$218,135.

The parameters and guidelines identify specific interrogation activities that 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.

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

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 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 POBAR was enacted.

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.

However, the department claimed the following activities that are not reimbursable:

- Interviewing and recording statements of accused peace officers during on-duty hours;
- Interviewing and recording statements of witnessing peace officers during on-duty hours;
- Investigators' time to conduct interrogations; and
- Interviewing and recording statements of complainants and reviewing complaints

Adverse Comment

The Sheriff's Department claimed \$645,653 in salaries and benefits during the audit period under the Adverse Comment cost component. Related indirect costs total \$315,375. We determined that \$432,991 is unallowable because the department claimed unallowable activities. Related unallowable indirect costs total \$203,904.

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 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.

However, the department claimed investigation time (gathering reports, interviewing non-peace officers, and conducting preliminary investigations), which is not a reimbursable activity.

Reimbursable activities do not include any activities related to investigating a complaint. Activities such as, but not limited to, interviewing the complainant and preparing the complaint investigation report are not reimbursable.

The following table summarizes the overstated salaries and benefits and related indirect costs by fiscal year:

Cost Category	Fiscal Year			Total
	2002-03	2003-04	2004-05	
Salaries and benefits:				
Sheriff's Department	\$(339,733)	\$ (301,958)	\$ (285,815)	\$ (927,506)
Related indirect costs	(213,011)	(125,800)	(83,228)	(422,039)
Audit adjustment	<u>\$(552,744)</u>	<u>\$ (427,758)</u>	<u>\$ (369,043)</u>	<u>\$ (1,349,545)</u>

The parameters and guidelines, adopted by the Commission on State Mandates on July 27, 2000, define the criteria for procedural protections 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 VA1 (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.

Recommendation

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

County’s Response

The county did not respond to the finding.

**FINDING 2—
Misstated productive
hourly rates and
benefit rates**

The county misstated allowable salaries by \$2,567 (overstated by \$3,362 and understated by \$795) and overstated allowable benefits by \$6,357 for FY 2003-04. Related indirect costs total \$1,503. This error occurred as a result of overstated and understated productive hourly rates and overstated benefit rates reported by the Sheriff’s Department in the FY 2003-04 claim. Misstated rates resulted from the county mistakenly using reports from a different fiscal period. We recalculated allowable productive hourly rates and benefit rates by using the county’s Salary Recap Report for FY 2003-04.

The following table summarizes the overstated costs by object account and cost component for FY 2003-04:

<u>Object Account</u>	<u>Administrative Activities</u>	<u>Interrogation</u>	<u>Adverse Comment</u>	<u>Total</u>
Salaries	\$ 437	\$ (2,918)	\$ (86)	\$ (2,567)
Benefits	(1,305)	(4,859)	(193)	(6,357)
Indirect costs	258	(1,710)	(51)	(1,503)
Audit adjustment	\$ (610)	\$ (6,357)	\$ (330)	\$ (10,427)

The parameters and guidelines, section VA1 (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.

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.

Recommendation

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

County’s Response

The county did not respond to the finding.

**FINDING 3—
Misstated indirect
costs rates**

For FY 2003-04, the county understated allowable indirect costs totaling \$7,658. Specifically, the county understated Sheriff’s Department costs by \$8,872 and overstated Sheriff’s Corrections Unit costs by \$1,214. The misstatements occurred as a result of summation errors the county made when adding up the totals of indirect costs within the Indirect Cost Rate Proposals (ICRPs). We recalculated the indirect cost rates using the correct sums of allowable indirect costs.

The following schedule shows detailed calculations for the audit adjustment related to misstated indirect costs for FY 2003-04:

	<u>Sheriff’s Department</u>	<u>Sheriff’s Corrections Unit</u>	<u>Total</u>
Allowable indirect cost rate	69.33%	35.19%	
Less claimed rate	<u>(58.70)%</u>	<u>(54.80)%</u>	
Misstated indirect cost rate	10.63%	(19.61)%	
Allowable salaries	× \$ 83,465	× \$ 6,190	
Total	<u>\$ 8,872</u>	<u>\$ (1,214)</u>	<u>\$ 7,658</u>

The following table summarizes the audit adjustment by cost component for FY 2003-04:

<u>Cost Component</u>	<u>Sheriff’s Department</u>	<u>Sheriff’s Corrections Unit</u>	<u>Total</u>
Administrative Activities	\$ 2,210	\$ (159)	\$ 2,051
Interrogation	6,396	(1,037)	5,359
Adverse Comment	<u>266</u>	<u>(18)</u>	<u>248</u>
Total	<u>\$ 8,872</u>	<u>\$ (1,214)</u>	<u>\$ 7,658</u>

The parameters and guidelines, section VB (Indirect Costs), state that 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. Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments.”

Recommendation

We recommend that the county prepare its ICRPs in a manner that is consistent with the methodology outlined in OMB Circular A-87.

County’s Response

The county did not respond to the finding.

**State Controller's Office
Division of Audits
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