

LOS ANGELES COUNTY

Revised 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, 2003, through June 30, 2006



JOHN CHIANG
California State Controller

January 2010



JOHN CHIANG
California State Controller

January 13, 2010

The Honorable Don Knabe
Chairman of the Board of Supervisors
Los Angeles County
500 West Temple Street, Room 869
Los Angeles, CA 90012

Dear Supervisor Knabe:

The State Controller's Office audited the costs claimed by Los Angeles 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; Chapter 675, Statutes of 1990) for the period of July 1, 2003, through June 30, 2006.

This revised report supersedes our previous report issued June 30, 2009. In response to the county's request, we applied a fiscal year 2006-07 reasonable reimbursement methodology to the audit period. As a result, allowable costs increased by \$221,639, from \$588,437 to \$810,076.

The county claimed \$3,900,774 for the mandated program. Our audit disclosed that \$810,076 was allowable and \$3,090,698 was unallowable. The costs are unallowable primarily because the county claimed estimated costs not supported with corroborating documentation, claimed costs that are ineligible for reimbursement, claimed unsupported costs, and underclaimed eligible costs. The State paid the county \$122,203. Allowable costs claimed exceed the amount paid by \$687,873.

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:vb

cc: The Honorable Wendy L. Watanabe, Auditor-Controller
Los Angeles County
Hasmik Yaghabyan, SB 90 Administrator
Los Angeles County
Connie Yee, Chief
Auditor-Controller's Accounting Division
Los Angeles County
Carla Castaneda
Principal Program Budget Analyst
Department of Finance
Paula Higashi, Executive Director
Commission on State Mandates

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Revised Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Los Angeles 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; Chapter 675, Statutes of 1990) for the period of July 1, 2003, through June 30, 2006.

The county claimed \$3,900,774 for the mandated program. Our audit disclosed that \$810,076 was allowable and \$3,090,698 was unallowable. The costs are unallowable primarily because the county claimed estimated costs not supported with corroborating documentation, claimed costs that are ineligible for reimbursement, claimed unsupported costs, and underclaimed eligible costs. The State paid the county \$122,203. Allowable costs claimed exceed the amount paid by \$687,873.

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 Public Safety Officers Procedural Bill of Rights Act, 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. These 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 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 them 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 Officers Procedural Bill of Rights Program (POBOR) for the period of July 1, 2003, through June 30, 2006.

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

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

We limited our review of the 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, Los Angeles County claimed \$3,900,774 for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that \$810,076 is allowable and \$3,090,698 is unallowable.

For the fiscal year (FY) 2003-04 claim, the State made no payment to the county. Our audit disclosed that \$262,282 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$262,282, contingent upon available appropriations.

For the FY 2004-05 claim, the State made no payment to the county. Our audit disclosed that \$268,019 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$268,019, contingent upon available appropriations.

For the FY 2005-06 claim, the State paid the county \$122,203. Our audit disclosed that \$279,775 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$157,572 contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on May 22, 2009. Wendy L. Watanabe, Auditor-Controller, responded by letter dated June 18, 2009 (Attachment), agreeing with the audit results. We issued the final report on June 30, 2009.

This revised final report applies a reasonable reimbursement methodology to the audit period, as requested by the county. Accordingly, we have added Finding 4 (reasonable reimbursement methodology) to the audit report to explain how we determined allowable costs. We advised Hasmik Yaghobyan, SB 90 Administrator, of the revisions on December 15, 2009. She responded by telephone on December 29, 2009, concurring with the revisions to the audit report.

Restricted Use

This report is solely for the information and use of Los Angeles 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

January 13, 2010

**Revised Schedule 1—
Summary of Program Costs
July 1, 2003, through June 30, 2006**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries	\$ 1,765,181	\$ 99,499	\$(1,665,682)	Finding 1
Benefits	778,974	43,909	(735,065)	Finding 1
Services and supplies	<u>392,585</u>	<u>66,984</u>	<u>(325,601)</u>	Finding 2
Total direct costs	2,936,740	210,392	(2,726,348)	
Indirect costs	<u>176,518</u>	<u>9,950</u>	<u>(166,568)</u>	Finding 1
Subtotal	3,113,258	220,342	(2,892,916)	
Adjust allowable costs to zero ²	<u>—</u>	<u>(220,342)</u>	<u>(220,342)</u>	
Subtotal	3,113,258	—	(3,113,258)	
Reasonable reimbursement methodology	<u>—</u>	<u>262,282</u>	<u>262,282</u>	
Total program costs	<u>\$ 3,113,258</u>	262,282	<u>\$(2,850,976)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 262,282</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 223,207	\$ 87,509	\$ (135,698)	Finding 1
Benefits	107,523	42,154	(65,369)	Finding 1
Services and supplies	80,612	80,612	—	
Travel and training	<u>5,440</u>	<u>81</u>	<u>(5,359)</u>	Finding 3
Total direct costs	416,782	210,356	(206,426)	
Indirect costs	<u>90,959</u>	<u>35,536</u>	<u>(55,423)</u>	Finding 1
Subtotal	507,741	245,892	(261,849)	
Adjust allowable costs to zero ²	<u>—</u>	<u>(245,892)</u>	<u>(245,892)</u>	
Subtotal	507,741	—	(507,741)	
Reasonable reimbursement methodology	<u>—</u>	<u>268,019</u>	<u>268,019</u>	
Total program costs	<u>\$ 507,741</u>	268,019	<u>\$(239,722)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 268,019</u>		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs:				
Salaries	\$ 140,755	\$ 56,453	\$ (84,302)	Finding 1
Benefits	72,393	29,035	(43,358)	Finding 1
Services and supplies	16,422	16,422	—	Finding 2
Total direct costs	229,570	101,910	(127,660)	
Indirect costs	50,205	20,293	(29,912)	Finding 1
Subtotal	279,775	122,203	(157,572)	
Adjust allowable costs to zero ²	—	(122,203)	(122,203)	
Subtotal	279,775	—	(279,775)	
Reasonable reimbursement methodology	—	289,905	289,905	
Subtotal	279,775	289,905	10,130	
Adjustment to eliminate negative balance ³	—	(10,130)	(10,130)	
Total program costs	<u>\$ 279,775</u>	279,775	<u>\$ —</u>	
Less amount paid by the State		(122,203)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 157,572</u>		
<u>Summary: July 1, 2003, through June 30, 2006</u>				
Direct costs:				
Salaries	\$ 2,129,143	\$ 243,461	\$(1,885,682)	
Benefits	958,890	115,098	(843,792)	
Services and supplies	489,619	164,018	(325,601)	
Travel and training	5,440	81	(5,359)	
Total direct costs	3,583,092	522,658	(3,060,434)	
Indirect costs	317,682	65,779	(251,903)	
Subtotal	3,900,774	588,437	(3,312,337)	
Adjust allowable costs to zero ²	—	(588,437)	(588,437)	
Subtotal	3,900,774	—	(3,900,774)	
Reasonable reimbursement methodology	—	820,206	820,206	
Subtotal	3,900,774	820,206	(3,080,568)	
Adjustment to eliminate negative balance ³	—	(10,130)	(10,130)	
Total program costs	<u>\$ 3,900,774</u>	810,076	<u>\$(3,090,698)</u>	
Less amount paid by the State		(122,203)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 687,873</u>		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary by Cost Component</u>				
Administrative Activities	\$ 94,422	\$ 33,396	\$ (61,026)	
Administrative Appeals	34,669	—	(34,669)	
Interrogations	3,452,575	555,041	(2,897,534)	
Adverse Comments	319,108	—	(319,108)	
Subtotal	3,900,774	588,437	(3,312,337)	
Adjust allowable costs to zero ²	—	(588,437)	(588,437)	
Subtotal	3,900,774	—	(3,900,774)	
Reasonable reimbursement methodology	—	820,206	820,206	
Subtotal	3,900,774	820,206	(3,080,568)	
Adjustment to eliminate negative balance ³	—	(10,130)	(10,130)	
Total program costs	<u>\$ 3,900,774</u>	<u>\$ 810,076</u>	<u>\$(3,090,698)</u>	

¹ See the Findings and Recommendations section.

² We reduced allowable costs based on actual documentation to zero prior to the application of a reasonable reimbursement methodology (see Finding 4).

³ Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. The deadline has expired for FY 2005-06.

Revised Findings and Recommendations

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

The county claimed \$3,088,033 in salaries and benefits for the audit period. We determined that \$358,559 is allowable and \$2,729,474 is unallowable. The unallowable costs occurred because \$1,943,871 was claimed for Internal Affairs Bureau cases based on estimates and no corroborating evidence was provided to support the costs; \$804,726 was claimed for costs that did not relate to the mandated program; and \$19,123 was underclaimed due to calculation errors made when the county prepared its claims. The related unallowable indirect costs totaled \$251,903. The specifics of these audit findings are presented in this section of the report.

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

<u>Reimbursable Component</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
Direct costs:			
Administrative Activities	\$ 67,393	\$ 25,232	\$ (42,161)
Interrogations	2,775,056	333,327	(2,441,729)
Adverse Comment	245,584	—	(245,584)
Total direct costs	3,088,033	358,559	(2,729,474)
Indirect costs	317,682	65,779	(251,903)
Total	<u>\$ 3,405,715</u>	<u>\$ 424,338</u>	<u>\$ (2,981,377)</u>

Administrative Activities

For the Administrative Activities cost component, the county claimed \$67,393 in salaries and benefits for the audit period. We determined that \$25,232 is allowable and \$42,161 is unallowable. The unallowable costs occurred because the county claimed reimbursement for training classes that were not mandate related. In addition, related indirect costs of \$13,506 are unallowable.

Non-Mandate-Related Training

The parameters and guidelines state that reimbursement is for training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities. Of the \$67,393 claimed for training, only \$25,232 is related to the mandate.

The following table summarizes the claimed, allowable, and unallowable costs by individual training class for the audit period:

<u>Training Class</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
Internal Affairs and the Use of Force	\$ 22,514	\$ —	\$ (22,514)
POBOR–One-Hour Online Review	13,533	13,533	—
Basic Supervisory Course	11,101	6,476	(4,625)
Investigative Interview and Interrogation Techniques	8,659	—	(8,659)
Field Operations School Training for Sergeants	5,051	5,051	—
The Rights of Police Officers	4,117	172	(3,945)
POBOR–What You Need to Know	2,418	—	(2,418)
Total	\$ 67,393	\$ 25,232	\$ (42,161)

The county claimed \$22,514 in salaries and benefits for 13 sergeants to attend a three-day seminar entitled “Internal Affairs and the Use of Force.” The costs incurred for this seminar are unallowable because it covered the following non-mandate-related topics:

- Developments in law enforcement labor issues (ADA, FMLA, physical fitness plans)
- Constitutional rights involved in internal affairs and deadly force incidents
- Research on critical incidents
- Use of force and risk management

The county claimed \$11,101 in salaries and benefits for one sergeant and 32 deputies to attend a two-week training course entitled “Basic Supervisory Course.” Six hours were claimed for each employee as reimbursement for this course; however, we determined that the only mandate-related topic was “POBOR Performance Logs,” which lasted 3.5 hours. Therefore, the remaining 2.5 hours are unallowable, resulting in a \$4,625 audit adjustment.

The county claimed \$8,659 in salaries and benefits for three sergeants to attend a five-day seminar entitled “Investigative Interview and Interrogation.” The costs incurred for this seminar are unallowable because it covered the following non-mandate-related topics:

- Analysis of non-verbal behavior
- Standard and cognitive interview techniques
- Credibility assessment interviewing
- The six phases of interrogations

The county claimed \$4,117 in salaries and benefits for two lieutenants to attend a three-day seminar entitled “The Rights of Police Officers.” Of the seven topics discussed during the seminar, the only mandate-related topic was “The Basic Principles of Constitutional Rights,” which lasted one hour.

The following topics are not mandate-related:

- Recent developments (ADA, FMLA, physical fitness plans)
- The Garrity Rule and the right to representation
- Just Cause for Discipline
- The Fair Labor Standards Act
- Freedom of Speech and the Right to Privacy
- Collective Bargaining

The county claimed \$2,418 in salaries and benefits for three sergeants and one lieutenant to attend a one-day class entitled “POBOR–What You Need to Know.” While costs incurred for this class appear to be reimbursable based on the title, we determined that the costs were unallowable because the class addressed the due process rights of police officers rather than the requirements of the mandated program. In addition, the Commission on State Mandates (CSM) noted in its Statement of Decision adopted on November 30, 1999, that activities performed under the requirements of due process are not activities mandated by the state and are not allowable for reimbursement under this mandated program.

The parameters and guidelines (section IV(A)(2)–Reimbursable Activities–Administrative Activities) state that claimants are eligible for reimbursement for costs associated with attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.

Interrogations

For the Interrogations cost component, the county claimed \$2,775,056 in salaries and benefits for the audit period. We determined that \$333,327 is allowable and \$2,441,729 is unallowable. The unallowable costs occurred because \$1,943,871 was claimed for Internal Affairs Bureau cases based on estimates and no corroborating evidence was provided to support the costs; \$516,981 was claimed for costs that did not relate to the mandated program; and \$19,123 was underclaimed due to calculation errors made when the county prepared its claims. The related unallowable indirect costs totaled \$164,873. Since costs claimed under this cost component represent the bulk of the audit findings for the audit, we have broken down this portion of the audit finding by Internal Affairs Bureau cases and unit-level cases.

Internal Affairs Bureau

For the Internal Affairs Bureau (IAB), the county claimed \$2,004,274 in salaries and benefits for the audit period. We determined that \$60,403 is allowable and \$1,943,871 is unallowable. The unallowable costs occurred because \$1,883,766 was estimated for FY 2003-04 based on a ratio of sworn cases to total cases, and \$60,105 was estimated for FY 2004-05 and FY 2005-06 based on four hours per case.

The following table summarizes the claimed, allowable, and unallowable costs and the reasons for the audit adjustments by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>	<u>Audit Adjustment Reasoning</u>
2003-04	\$1,905,250	\$ 21,484	\$(1,883,766)	Estimate of sworn cases to total number of cases
2004-05	59,280	23,732	(35,548)	Estimate of four hours/case
2005-06	39,744	15,187	(24,557)	Estimate of four hours/case
Total	<u>\$2,004,274</u>	<u>\$ 60,403</u>	<u>\$(1,943,871)</u>	

The county's application of a ratio of sworn-to-total cases in FY 2003-04 represents an estimate of the investigator's time rather than the actual time spent. The county's methodology to use a ratio to claim costs is unallowable because:

- The ratio is an estimate and not based on actual time recorded in any contemporaneous documents.
- The amount of time spent on each case varies significantly depending on the number of misconduct allegations, the nature and seriousness of the alleged misconduct, the number of complaints, etc.
- The ratio assumes that each investigator's time was 100% case-related. No provision was allowed for time devoted to non-case-related activities (i.e., administrative meetings, training, participation on promotional exams and shooting range qualifications).
- The ratio also assumes that all investigative activities are reimbursable, from the initial investigation through completing the case file. Based on our review of the county's time study during the previous audit covering FY 1994-95 through FY 2002-03, we noted that the county claimed reimbursement for taking the initial complaint, reviewing the complaint (as a pre-investigative activity), collecting evidence, interviewing the complainant, preparing the interview questions, interviewing the subject during work hours, assembling the case file, reviewing case materials, preparing summary reports, and presenting the case at executive risk review committee hearings.

In addition, the IAB costs claimed for FY 2004-05 and FY 2005-06 are unallowable because they are based on an estimate of four hours per case. The county concluded that its unit-level time study resulted in an average of two hours per case. Therefore, due to the complexity of IAB cases in comparison with unit-level cases, the county claimed reimbursement of four hours per IAB case under the assumption that they were twice as complex as unit-level cases. However, the parameters and guidelines specifically state that reimbursement is for "actual time devoted to each reimbursable activity by each employee."

On April 28, 2008, we conducted a telephone conference with county representatives to discuss a time study proposal. We recommended that the county perform a time study of IAB cases to determine reimbursement for the following repetitive interrogation activities:

- Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers.
- Tape recording the interrogation when the peace officer employee records the interrogation.
- Providing the peace officer employee with access to the recording prior to any further interrogation, when requested by the officer.
- Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators, except those that are deemed confidential, when requested by the peace officer.

It was agreed that the IAB would perform a time study of interrogation activities from October 2008 through December 2008. We approved the IAB time study proposal via an e-mail to Lieutenant Ault and Captain Mannis of the Sheriff's Department on September 25, 2008.

On January 27, 2009, the county submitted the results of its time study. The time study included 14 POBOR cases involving 22 sworn officers. The results determined an average of 1.36 hours per case was spent for the investigator to read background documents and prepare the notification of interrogation, and 0.14 hours was spent per case for the sworn officer to read, review, and sign the notification of interrogation. Based on these results, allowable IAB costs totaled \$60,403 for the audit period, as noted in the table on the previous page.

Unit-Level Station Cases

The county claimed \$770,782 in salaries and benefits for the audit period for unit-level cases. We determined that \$272,924 is allowable and \$497,858 is unallowable. The unallowable costs occurred because the county claimed \$516,981 for activities that are not allowable for reimbursement under the mandated program, and understated costs for allowable activities by \$19,123 due to calculation errors made while preparing the county's claims for FY 2004-05 and FY 2005-06.

The following table summarizes the claimed, allowable, and unallowable costs by fiscal year.

Fiscal Year	Amount Claimed	Allowable Costs	Audit Adjustment	Audit Adjustment Reasoning
2003-04	\$ 638,905	\$ 121,924	\$(516,981)	Unallowable activities (9.71 hrs./case)
2004-05	70,479	80,699	10,220	Calculation error (0.29 hrs./case)
2005-06	61,398	70,301	8,903	Calculation error (0.29 hrs./case)
	<u>\$ 770,782</u>	<u>\$ 272,924</u>	<u>\$(497,858)</u>	

The county's claim for FY 2003-04 was based on 12 hours per unit-level case. The hours claimed were based on a five-month time study that began in May of 2004 for unit-level interrogation activities. This is the same time study that was used for the county's reimbursement claims for FY 1994-95 through FY 2002-03, which have already been audited. The prior audit report, issued on March 30, 2007, noted that 2.29 hours claimed for interrogation costs were for reimbursable activities, while the remaining 9.71 hours were for activities that are not reimbursable under the mandated program. Accordingly, we applied 2.29 hours per case for the number of cases each unit-level employee worked on during the year and determined that \$121,924 is allowable and \$516,981 is unallowable.

When the county prepared its reimbursement claims for FY 2004-05 and FY 2005-06, the number of allowable hours per case was adjusted, based on the results of the prior audit. However, the county only claimed reimbursement for 2 hours per unit-level case instead of 2.29 hours per case for both fiscal years. As a result, allowable costs were underclaimed by \$19,123.

On April 28, 2008, we conducted a telephone conference with county representatives to discuss the 2.29 hours per case that was allowable from the previous audit based on the county's May 2004 time study. Since the county's claims currently under audit were based on the same time study, we advised the county that 2.29 hours would be allowable per unit-level case for the current audit. We noted that we would adjust allowable costs as appropriate if the county chose to perform a time study in the current period. However, the county opted not to perform another time study for unit-level cases. Therefore, reimbursable costs total \$272,924 for the audit period based on the previous time study results.

Adverse Comment

For the Adverse Comment cost component, the county claimed \$245,584 in salaries and benefits for the audit period (\$67,464 for IAB cases and \$178,120 for unit level cases). We determined that none of the costs are allowable because the costs claimed are unsupported. The county claimed four hours per case for adverse comment activities based on its previous time study conducted in 2004. However, that time study did not include any activities that are reimbursable under the Adverse Comment cost component. In addition, related indirect costs of \$73,524 are unallowable.

The following table summarizes the claimed, allowable, and unallowable costs and the reason for the audit adjustments by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>	<u>Audit Adjustment Reasoning</u>
2003-04	\$ —	\$ —	\$ —	
2004-05	133,578	—	(133,578)	Adverse comment activities not supported in time study
2005-06	112,006	—	(112,006)	
	<u>\$ 245,584</u>	<u>\$ —</u>	<u>\$ (245,584)</u>	

The county claimed reimbursement of four hours per “founded case” in its claims for FY 2004-05 and FY 2005-06 for both the unit-level cases and the IAB cases. The county based its estimate on the five-month time study of the unit-level station cases that began in May 2004. As noted above, the prior audit included a thorough review of the county’s 2004 time study which concluded that 2.29 hours of **interrogation costs** were allowable. None of the activities performed in the time study have been identified as reimbursable Adverse Comment activities. Furthermore, costs claimed for IAB cases should not be based on unit-level cases.

On April 28, 2008, we conducted a telephone conference with county representatives to discuss the unallowable costs. We recommended that the county perform a time study of the following repetitive Adverse Comment activities for both the unit-level stations and the Internal Affairs Bureau:

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

Included in the foregoing is a review of circumstances or documentation leading to adverse comment by a supervisor, command staff, human resources staff, or counsel, including a 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.

On July 15, 2008, the county responded, “At this time we do not plan on conducting a time study for the activities associated with adverse comment. However, we would consider conducting a time study at a later date.” Therefore, claimed costs totaling \$245,584 are unallowable. If the county subsequently provides corroborating evidence to support the time it takes to perform individual adverse comment activities and the number of activities performed, we will revise the audit results as appropriate.

Summary

The following table summarizes the audit adjustments by fiscal year:

Cost Categories	Fiscal Year			Total
	2003-04	2004-05	2005-06	
Salaries	\$ (1,665,682)	\$ (135,698)	\$ (84,302)	\$ (1,885,682)
Benefits	(735,065)	(65,369)	(43,358)	(843,792)
Subtotal	(2,400,747)	(201,067)	(127,660)	(2,729,474)
Related indirect costs	(166,568)	(55,423)	(29,912)	(251,903)
Audit adjustment	<u>\$ (2,567,315)</u>	<u>\$ (256,490)</u>	<u>\$ (157,572)</u>	<u>\$ (2,981,377)</u>

The parameters and guidelines for POBOR—adopted by the CSM on July 27, 2000, and corrected on August 17, 2000—define the criteria for procedural protection for city and county peace officers.

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

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

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

Recommendation

We recommend 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

We agreed with the recommendation. The County will review and establish policies and procedures to ensure that the salaries and benefits costs claimed under the POBOR are eligible and properly supported.

SCO's Comments

Subsequent to the issuance of the final report, the county requested and we concurred, that it be allowed to apply a reasonable reimbursement methodology to the county's claims. We addressed this issue separately in Finding 4.

**FINDING 2—
Unallowable services
and supplies**

The county claimed \$489,619 in services and supplies for the audit period. We determined that \$164,018 is allowable and \$325,601 is unallowable. The costs are unallowable because the documentation provided by the county for \$272,325 claimed under the Interrogations cost component and \$34,669 claimed under the Administrative Appeals cost component did not indicate whether any reimbursable activities were performed. In addition, \$18,607 claimed under the Interrogations cost component was not mandate related.

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

<u>Reimbursable Component</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
Administrative Appeals	\$ 34,669	\$ —	\$ (34,669)
Interrogations	454,950	164,018	(290,932)
	<u>\$ 489,619</u>	<u>\$ 164,018</u>	<u>\$ (325,601)</u>

Administrative Appeal

The county claimed reimbursement of \$34,669 for administrative appeal legal services provided by the county counsel during FY 2003-04. The Senior Deputy County Counsel worked on 37 administrative appeal cases of which eight involved a sworn officer. The documentation provided by the county did not provide sufficient information to verify whether or not any reimbursable activities were performed.

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

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

Included in the foregoing are the preparation and review of 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; and the preparation and service of any rulings or orders of the administrative body.

Interrogations

For the Interrogations cost component, the county claimed \$454,950 in services and supplies for the audit period. We determined \$164,018 is allowable and \$290,932 is unallowable. The costs are unallowable because documentation provided by the county to support \$272,325 for case investigations did not indicate whether any reimbursable activities were performed and \$18,607 was claimed for unallowable activities.

Case Investigations

The county's Office of Affirmative Action Compliance assisted the Internal Affairs Bureau with case investigations during FY 2003-04. The county claimed reimbursement of \$272,325, which was the cost of six Deputy Compliance Officers' annual salaries multiplied by a ratio of time spent by each officer on POBOR-related cases. The county did not provide an explanation of how the ratios were calculated. In addition, the costs are unallowable because based on the documentation provided by the county, we were unable to determine if any allowable activities were performed by the Deputy Compliance Officers.

Transcription Costs

The county claimed \$180,713 for transcription services for Internal Affairs Bureau cases for the audit period. We determined that \$162,106 is allowable and \$18,607 is unallowable. The costs are unallowable because the county's reimbursement claim for FY 2003-04 included \$18,607 for transcription services that were not related to a POBOR case.

Summary

The following table summarizes the claimed, allowable, and unallowable services and supplies costs by fiscal year:

<u>Fiscal Year</u>	<u>Amount Claimed</u>	<u>Allowable Costs</u>	<u>Audit Adjustment</u>
2003-04	\$ 392,585	\$ 66,984	\$ (325,601)
2004-05	80,612	80,612	—
2005-06	16,422	16,422	—
	<u>\$ 489,619</u>	<u>\$ 164,108</u>	<u>\$ (325,601)</u>

The parameters and guidelines (section V(A)(3)–Claim Preparation and Submission–Supporting Documentation–Contract Services), require the claimant to provide the name(s) of the contractor(s) who performed the services, and to describe the reimbursable activities performed by each contractor, and give the number of actual hours spent on mandate activities. The claimant is also required to show the inclusive dates when services were performed and itemize all costs for those services.

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.

Recommendation

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

County’s Response

We agree with the recommendation. The County will review and establish policies and procedures to ensure that the services and supplies costs claimed under the POBOR are based on actual costs.

SCO’s Comments

Subsequent to the issuance of the final report, the county requested and we concurred, that it be allowed to apply a reasonable reimbursement methodology to the county’s claims. We addressed this issue separately in Finding 4.

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

The county claimed \$5,440 in travel and training costs for FY 2004-05 under the Administrative Activities cost component. We determined that \$81 is allowable and \$5,359 is unallowable. The costs are unallowable because the county claimed reimbursement for activities claimed that were not mandate-related, as noted previously in Finding 1.

The following table summarizes the claimed, allowable, and unallowable costs by individual training class.

Training Class	Amount Claimed	Allowable Costs	Audit Adjustment
Investigative Interview and Interrogation Techniques	\$ 3,413	\$ —	\$ (3,413)
The Rights of Police Officers	1,947	81	(1,866)
POBOR - What You Need to Know	80	—	(80)
	<u>\$ 5,440</u>	<u>\$ 81</u>	<u>\$ (5,359)</u>

The county claimed \$3,413 in travel and training costs for three sergeants to attend a five-day seminar entitled “Investigative Interview and Interrogation.” The costs incurred for this seminar are unallowable because it covered the following non-mandate-related topics:

- Analysis of nonverbal behavior
- Standard and cognitive interview techniques
- Credibility assessment interviewing
- The six phases of interrogations

The county claimed \$1,947 in travel and training costs for two lieutenants to attend a three-day seminar entitled “The Rights of Police Officers.” Of the seven topics discussed during the seminar, the only mandate-related topic was “The Basic Principles of Constitutional Rights,” which lasted one hour. The following topics are not mandate-related:

- Recent developments (ADA, FMLA, physical fitness plans)
- The Garrity Rule and the right to representation
- Just cause for discipline
- The Fair Labor Standards Act
- Freedom of Speech and the Right to Privacy
- Collective Bargaining

The county claimed \$80 in registration costs for three sergeants and one lieutenant to attend a one-day class entitled “POBOR—What You Need to Know.” The costs are unallowable because the class addressed the due process rights of police officers rather than the requirements of the mandated program.

The parameters and guidelines (section IV(A)(2)–Reimbursable Activities–Administrative Activities) state that claimants are eligible for reimbursement for costs associated with attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.

The parameters and guidelines (section V(A)(5)–Claim Preparation and Submission–Direct Costs–Training) state that the cost of training an employee to perform the mandated activities is eligible for reimbursement. The claimant is required to identify the employees by name and job classification and provide the title and subject of the training sessions, the dates attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

Recommendation

We recommend the county establish and implement procedures to ensure that claimed costs include only eligible costs.

County’s Response

We agree with the recommendation. The County will review and establish policies and procedures to ensure that the travel and training costs claimed under the POBOR are eligible mandate-related costs.

SCO’s Comments

Subsequent to the issuance of the final report, the county requested and we concurred, that it be allowed to apply a reasonable reimbursement methodology to the county’s claims. We addressed this issue separately in Finding 4.

FINDING 4— Reasonable reimbursement methodology

We received an e-mail from Hasmik Yaghobyan, SB90 Administrator, on October 8, 2009, requesting that SCO apply a unit cost methodology to the county’s POBOR claims for FY 1994-95 through FY 2005-06.

We concurred that the county’s request was reasonable. Consequently, we allowed \$820,206 in costs using the FY 2006-07 CSM-adopted Reasonable Reimbursement Methodology (RRM) as a basis in determining reimbursable cost for FY 2003-04 through FY 2005-06. We adjusted allowable costs for FY 1994-95 through FY 2002-03 in a separate audit report. We requested and the county provided support regarding the number of sworn officers that it employed during each year of the audit period.

The CSM adopted the FY 2006-07 RRM rate of \$37.25 on March 28, 2008 based on actual results of prior audits, as increased by the implicit price deflator (IPD) for state and local purchases. The CSM determined the RRM to be \$33.22 for FY 2004-05 and \$35.35 for FY 2005-06.

The following table summarizes the allowable cost for each fiscal year based on the methodology described above.

	Fiscal Year			Total
	2003-04	2004-05	2005-06	
Number of sworn officers	8,337	8,068	8,201	
Reasonable reimbursement rate	× 31.46	× 33.22	× 35.35	
Total audit adjustment	<u>\$ 262,282</u>	<u>\$ 268,019</u>	<u>\$ 289,905</u>	<u>\$ 820,206</u>

Prior to applying the results of the RRM to the audit period, we reduced the previously allowable costs based on actual documentation to zero. We noted this in Footnote 2 of the Revised Schedule 1 – Summary of Program Costs.

Recommendation

We recommend that the county maintain documentation supporting actual costs claimed or use the CSM-adopted RRM in filing subsequent claims.

County's Response

The county concurs with the audit adjustment.

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



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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ROBERT A. DAVIS
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JUDI E. THOMAS

June 18, 2009

Mr. Jeffrey V. Brownfield, Chief
Division of Audits
State Controller's Office
300 Capitol Mall, Suite 518
Sacramento, California 95814

Dear Mr. Brownfield:

**LOS ANGELES COUNTY
RESPONSE TO STATE CONTROLLER'S AUDIT REPORT
PEACE OFFICER'S PROCEDURAL BILL OF RIGHTS (POBOR)
JULY 1, 2003 THROUGH JUNE 30, 2006**

The County of Los Angeles has reviewed the State's draft audit report dated May 22, 2009 for POBOR's program, for the period July 1, 2003 through June 30, 2006. The draft audit report concluded that, of the \$3,900,774 claimed under POBOR, \$588,437 is allowable. The remaining \$3,312,337 is not allowable pursuant to the Parameters and Guidelines adopted by the Commission on State Mandates on July 27, 2000.

The County's response, which is attached, indicates agreement with the audit findings and the actions the County will take to implement policies and procedures to ensure that the costs claimed under POBOR are eligible, mandate related and supported. We also recognize that if the County subsequently provides additional information to support its \$3,312,337 of unallowable costs, the State will revise the final audit report to include the additional allowable costs.

If you have any questions, please contact Hasmik Yaghobyan at (213) 893-0792 or via e-mail at hyaghobyan@auditor.lacounty.gov.

Very truly yours,

Wendy L. Watanabe
Auditor-Controller

WLW:JN:CY:hy
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Attachment

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**LOS ANGELES COUNTY
RESPONSE TO STATE CONTROLLER'S AUDIT REPORT
PEACE OFFICER'S PROCEDURAL BILL OF RIGHTS (POBOR)
JULY 1, 2003 THROUGH JUNE 30, 2006**

Finding # 1- Unallowable Salaries, Benefits, and Related Indirect costs for Administrative Activities, Interrogations, and Adverse Comment

The County claimed \$3,088,033 in salaries and benefits for the audit period. We determined that \$358,559 is allowable and \$2,729,474 is not allowable. The unallowable costs occurred because \$1,943,871 was claimed for Internal Affairs Bureau cases based on estimates and no corroborating evidence was provided to support these costs, \$804,726 was claimed for costs that did not relate to the mandated program, and \$19,123 was underclaimed due to calculation errors made in the claim preparation process. The related unallowable indirect costs totaled \$251,903.

Recommendation

We recommend 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

We agree with the recommendation. The County will review and establish policies and procedures to ensure that the salaries and benefits costs claimed under the POBOR are eligible and properly supported.

Finding # 2- Unallowable Services and Supplies for Administrative Appeals and Interrogations

The County claimed \$489,619 for services and supplies for the audit period. We determined that \$164,018 is allowable and \$325,601 is not allowable. The costs are unallowable because the documentation provided by the County for \$272,325 claimed under the Interrogations cost component and \$34,669 claimed under the Administrative Appeals component did not indicate whether any reimbursable activities were performed. Additionally, \$18,607 claimed under the Interrogations cost component was not mandate related.

Recommendation

We recommend the County establish and implement procedures to ensure that claimed costs include only eligible costs.

County's Response

We agree with the recommendation. The County will review and establish policies and procedures to ensure that the services and supplies costs claimed under the POBOR are based on actual costs.

Finding # 3- Unallowable Travel and Training Costs for Administrative Activities

The County claimed \$5,440 for travel and training costs for fiscal year 2004-05 under the Administrative Activities cost component. We determined that \$81 is allowable and \$5,359 is not allowable. These costs are unallowable because the County claimed reimbursement for activities that were not mandate-related.

Recommendation

We recommend the County establish and implement procedures to ensure that claimed costs include only eligible costs.

County's Response

We agree with the recommendation. The County will review and establish policies and procedures to ensure that the travel and training costs claimed under the POBOR are eligible mandate-related costs.

**State Controller's Office
Division of Audits
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