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; and Chapter 675, Statutes of 1990

July 1, 1994, through June 30, 2003

JOHN CHIANG
California State Controller

February 2010

JOHN CHIANG
California State Controller

February 24, 2010

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

Dear Mr. Knabe:

The State Controller's Office audited the costs claimed by Los Angeles County Sheriff's Department 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, 1994, through June 30, 2003. This revised report supersedes the previously issued final report dated March 30, 2007. This report applies a reasonable reimbursement methodology (RRM) to the audit period, as requested by the county.

The county claimed $31,152,062 ($31,154,062 less a $2,000 penalty for filing late claims) for the mandated program. Our initial audit disclosed that $1,313,057 was allowable and $29,363,005 was unallowable based on actual documentation provided by the county. The county agreed that claimed costs were overstated by $22,363,099. The remaining costs were unallowable because the county claimed ineligible investigation costs and unsupported costs.

This revised audit disclosed that $2,037,198 is allowable and $29,114,864 is unallowable. The costs are deemed unallowable after the application of the reasonable reimbursement methodology (RRM) to the audit period. When we applied the RRM rather than the reimbursable costs based on actual documentation provide by the county, allowable costs increased by $724,141. The State paid the county $813,685. The State will pay allowable costs that exceed the amount paid, totaling $1,223,513, 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 link at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/wm:ams

cc: Wendy L. Watanabe, Auditor-Controller
Los Angeles County
Connie Yee, Chief
Auditor-Controller's Accounting Division
Los Angeles County
Hasmik Yaghabyan, SB 90 Coordinator
Los Angeles County
Jeff Carosune
Principal Program Budget Analyst
Department of Finance

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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; and Chapter 675, Statutes of 1990) for the period of July 1, 1994, through June 30, 2003.

The county claimed $31,152,062 ($31,154,062 less a $2,000 penalty for filing late claims) for the mandated program. Our initial audit disclosed that $1,313,057 was allowable and $29,363,005 was unallowable based on actual documentation provided by the county. The county agreed that claimed costs were overstated by $22,363,099. The remaining costs were unallowable because the county claimed ineligible investigation costs and unsupported costs.

This revised audit disclosed that $2,037,198 is allowable and $29,114,864 is unallowable. The costs are deemed unallowable after the application of the reasonable reimbursement methodology (RRM) to the audit period. When we applied the RRM rather than the reimbursable costs based on actual documentation provide by the county, allowable costs increased by $724,141. The State paid the county $813,685. The State will pay allowable costs that exceed the amount paid, totaling $1,223,513, 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 1989; and Chapter 675, Statutes of 1990 added and amended Government Code sections 3300 through 3310, known as the Public Safety Officers Procedural Bills 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. The protections apply to peace officers who are 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 its 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 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 Advise Comment. In compliance with Government Code section 17558, the SCO issues claiming instructions for mandated programs to assist local agencies in claiming reimbursable costs.

The CSM adopted amended parameters and guidelines on March 28, 2008, pursuant to Government Code section 17557 and Title 2, California Code of Regulations, section 1183.2. The amended parameters and guidelines state that the claimants may be reimbursed for the reimbursable activities by claiming costs pursuant to the reasonable reimbursement methodology or by filing an actual cost claim. The CSM adopted the reasonable reimbursement methodology (RRM) to reimburse local agencies and school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), in lieu of payment of total actual costs incurred for the reimbursable activities. The amended parameters and guidelines apply to costs incurred and claimed beginning on July 1, 2006.

The RRM allows each eligible claimant to be reimbursed at the rate of $37.25 per full-time sworn peace officer employed by the agency and reported to the Department of Justice. The rate per full-time sworn peace officer is adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Peace Officers Procedural Bill of Rights Program (POBOR) for the period of July 1, 1994, through June 30, 2003.

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 $31,152,062 ($31,154,062 less a $2,000 penalty for filing late claims) for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that $2,037,198 is allowable and $29,114,864 is unallowable.

For the fiscal year (FY) 1994-95 claim, the State paid the county $86,937. Our audit disclosed that $191,346 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $104,409, contingent upon available appropriations.

For the FY 1995-96 claim, the State paid the county $108,006. Our audit disclosed that $200,630 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $92,624, contingent upon available appropriations.

For the FY 1996-97 claim, the State paid the county $76,142. Our audit disclosed that $204,528 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $128,386, contingent upon available appropriations.

For the FY 1997-98 claim, the State paid the county $98,369. Our audit disclosed that $209,679 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $111,310, contingent upon available appropriations.

For the FY 1998-99 claim, the State paid the county $112,154. Our audit disclosed that $215,712 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $103,558, contingent upon available appropriations.

For the FY 1999-2000 claim, the State paid the county $331,915. Our audit disclosed that $233,742 is allowable. The State will offset $98,173 from other mandated program payments due to the county. Alternatively, the county may remit this amount to the State.

For the FY 2000-01 claim, the State made no payment to the county. Our audit disclosed that $254,848 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $254,848, contingent upon available appropriations.

For the FY 2001-02 claim, the State made no payment to the county. Our audit disclosed that $262,759 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $262,759, contingent upon available appropriations.

For the FY 2002-03 claim, the State paid the county $162. Our audit disclosed that $263,954 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $263,792, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on June 7, 2006. J. Tyler McCauley, Auditor-Controller, responded by letter dated June 27, 2006, disagreeing with the audit results for Finding 1, and agreeing with the audit results for Finding 2. The county did not respond to Findings 3 and 4.

This revised final report applies a reasonable reimbursement methodology to the audit period, as requested by the county. Accordingly, we have added Finding 5 (Application of reasonable reimbursement methodology) to the audit report to explain how we determined allowable costs. Allowable costs increased by $724,141, from $1,313,057 to $2,037,198. We advised Hasmik Yaghobyan, SB 90 Administrator, of the revisions on January 19, 2010. Wendy L. Watanabe, Auditor-Controller, responded by letter dated February 9, 2010, agreeing with the revised audit results.

This revised final audit report includes the county's responses as Attachment A (February 9, 2010 response) and Attachment B (June 27, 2006 response).

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

February 24, 2010

Revised Schedule 1—
Summary of Program Costs
July 1, 1994, through June 30, 2003

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 1994, through June 30, 1995				
Salaries and benefits	$ 3,219,495	$ 70,806	$ (3,148,689)	Findings 1, 2
Services and supplies	148,783	5,499	(143,284)	Findings 1, 2
Total direct costs	3,368,278	76,305	(3,291,973)	
Indirect costs	483,471	10,632	(472,839)	Findings 1, 2
Subtotal	3,851,749	86,937	(3,764,812)	
Adjust allowable costs to zero [2]	—	(86,937)	(220,342)	
Subtotal	3,851,749	—	(3,985,154)	
Reasonable reimbursement methodology	—	191,346	191,346	Finding 3
Total program costs	$ 3,851,749	191,346	$ (3,793,808)	
Less amount paid by the State		(86,937)		
Allowable costs claimed in excess of (less than) amount paid		$ 104,409		
July 1, 1995, through June 30, 1996				
Salaries and benefits	$ 3,125,472	$ 71,554	$ (3,053,918)	Findings 1, 2
Services and supplies	216,017	29,823	(186,194)	Findings 1, 2
Total direct costs	3,341,489	101,377	(3,240,112)	
Indirect costs	289,546	6,629	(282,917)	Findings 1, 2
Subtotal	3,631,035	108,006	(3,523,029)	
Adjust allowable costs to zero [2]	—	(108,006)	(108,006)	
Subtotal	3,631,035	—	(3,631,035)	
Reasonable reimbursement methodology	—	200,630	200,630	Finding 3
Total program costs	$ 3,631,035	200,630	$ (3,430,405)	
Less amount paid by the State		(108,006)		
Allowable costs claimed in excess of (less than) amount paid		$ 92,624		
July 1, 1996, through June 30, 1997				
Salaries and benefits	$ 2,266,584	$ 51,296	$ (2,215,288)	
Services and supplies	154,482	17,390	(137,092)	
Total direct costs	2,421,066	68,686	(2,352,380)	
Indirect costs	329,493	7,456	(322,037)	
Subtotal	2,750,559	76,142	(2,674,417)	
Adjust allowable costs to zero [2]	—	(76,142)	(76,142)	

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 1996, through June 30, 1997 (continued)				
Subtotal	2,750,559	—	(2,750,559)	
Reasonable reimbursement methodology	—	204,528	204,528	
Total program costs	$ 2,750,559	204,528	$ (2,546,031)	
Less amount paid by the State		(76,142)		
Allowable costs claimed in excess of (less than) amount paid		$ 128,386		
July 1, 1997, through June 30, 1998				
Salaries and benefits	$ 2,163,648	$ 54,518	$ (2,109,130)	Findings 1, 2
Services and supplies	199,771	38,049	(161,722)	Findings 1, 2
Total direct costs	2,363,419	92,567	(2,270,852)	
Indirect costs	230,196	5,802	(224,394)	Findings 1, 2
Subtotal	2,593,615	98,369	(2,495,246)	
Adjust allowable costs to zero [2]	—	(98,369)	(98,369)	
Subtotal	2,593,615	—	(2,593,615)	
Reasonable reimbursement methodology	—	209,679	209,679	Finding 3
Total program costs	$ 2,593,615	209,679	$ (2,383,936)	
Less amount paid by the State		(98,369)		
Allowable costs claimed in excess of (less than) amount paid		$ 111,310		
July 1, 1998, through June 30, 1999				
Salaries and benefits	$ 2,501,526	$ 47,546	$ (2,453,980)	Findings 1, 2
Services and supplies	250,835	57,283	(193,552)	Findings 1, 2
Total direct costs	2,752,361	104,829	(2,647,532)	
Indirect costs	385,311	7,325	(377,986)	Findings 1, 2
Subtotal	3,137,672	112,154	(3,025,518)	
Adjust allowable costs to zero [2]	—	(112,154)	(112,154)	
Subtotal	3,137,672	—	(3,137,672)	
Reasonable reimbursement methodology	—	215,712	215,712	Finding 3
Total program costs	$ 3,137,672	215,712	$ (2,921,960)	
Less amount paid by the State		(112,154)		
Allowable costs claimed in excess of (less than) amount paid		$ 103,558		
July 1, 1999, through June 30, 2000				
Salaries and benefits	$ 2,597,596	$ 60,307	$ (2,537,289)	Findings 1, 2
Services and supplies	841,745	265,757	(575,988)	Findings 1, 2
Total direct costs	3,439,341	326,064	(3,113,277)	
Indirect costs	295,073	6,851	(288,222)	Findings 1, 2

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 1999, through June 30, 2000 (continued)				
Subtotal	3,734,414	332,915	(3,401,499)	
Less late penalty	(1,000)	(1,000)	—	
Subtotal	3,733,414	331,915	(3,401,499)	
Adjust allowable costs to zero [2]	—	(331,915)	(331,915)	
Subtotal	3,733,414	—	(3,733,414)	
Reasonable reimbursement methodology	—	233,742	233,742	Finding 3
Total program costs	$ 3,733,414	233,742	$ (3,499,672)	
Less amount paid by the State		(331,915)		
Allowable costs claimed in excess of (less than) amount paid		$ (98,173)		
July 1, 2000, through June 30, 2001				
Salaries and benefits	$ 3,036,903	$ 98,088	$ (2,938,815)	Findings 1, 2
Services and supplies	924,571	86,362	(838,209)	Findings 1, 2
Total direct costs	3,961,474	184,450	(3,777,024)	
Indirect costs	297,248	9,601	(287,647)	Findings 1, 2
Subtotal	4,258,722	194,051	(4,064,671)	
Adjust allowable costs to zero [2]	—	(194,051)	(194,051)	
Subtotal	4,258,722	—	(4,258,722)	
Reasonable reimbursement methodology	—	254,848	254,848	Finding 3
Total program costs	$ 4,258,722	254,848	$ (4,003,874)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 254,848		
July 1, 2001, through June 30, 2002				
Salaries and benefits	$ 2,910,390	$ 74,644	$ (2,835,746)	Findings 1, 2
Services and supplies	1,009,584	121,257	(888,327)	Findings 1, 2
Total direct costs	3,919,974	195,901	(3,724,073)	
Indirect costs	252,207	6,468	(245,739)	Findings 1, 2
Subtotal	4,172,181	202,369	(3,969,812)	
Adjust allowable costs to zero [2]	—	(202,369)	(202,369)	
Subtotal	4,172,181	—	(4,172,181)	
Reasonable reimbursement methodology	—	262,759	262,759	Finding 3
Total program costs	$ 4,172,181	262,759	$ (3,909,422)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 262,759		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 2002, through June 30, 2003				
Salaries and benefits	$ 2,591,842	$ 51,121	$ (2,540,721)	Findings 1, 2
Services and supplies	244,138	49,283	(194,855)	Findings 1, 2
Total direct costs	2,835,980	100,404	(2,735,576)	
Indirect costs	188,135	3,710	(184,425)	Findings 1, 2
Subtotal	3,024,115	104,114	(2,920,001)	
Less late penalty	(1,000)	(1,000)	—	
Subtotal	3,023,115	103,114	(2,920,001)	
Adjust allowable costs to zero [2]	—	(103,114)	(103,114)	
Subtotal	3,023,115	—	(3,023,115)	
Reasonable reimbursement methodology	—	263,954	263,954	Finding 3
Total program costs	$ 3,023,115	263,954	$ (2,759,161)	
Less amount paid by the State		(162)		
Allowable costs claimed in excess of (less than) amount paid		$ 263,792		
Summary: July 1, 1994, through June 30, 2003				
Salaries and benefits	$ 24,413,456	$ 579,880	$ (23,833,576)	
Services and supplies	3,989,926	670,703	(3,319,223)	
Total direct costs	28,403,382	1,250,583	(27,152,799)	
Indirect costs	2,750,680	64,474	(2,686,206)	
Subtotal	31,154,062	1,315,057	(29,839,005)	
Less late penalty	(2,000)	(2,000)	—	
Subtotal	31,152,062	1,313,057	(29,839,005)	
Adjust allowable costs to zero [2]	—	(1,313,057)	(1,313,057)	
Subtotal	31,152,062	—	(31,152,062)	
Reasonable reimbursement methodology	—	2,037,198	2,037,198	
Total program costs	$ 31,152,062	2,037,198	$ (29,114,864)	
Less amount paid by the State		(813,685)		
Allowable costs claimed in excess of (less than) amount paid		$ 1,223,513		

Revised Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
Summary by Cost Component				
Administrative Appeal	$ 6,813,153	$ 353,352	$ (6,459,801)	
Interrogations	24,340,909	961,705	(23,379,204)	
Subtotal	31,154,062	1,315,057	(29,839,005)	
Less late penalty	(2,000)	(2,000)	—	
Subtotal	31,152,062	1,313,057	(29,839,005)	
Adjust allowable costs to zero [2]	—	(1,313,057)	(1,313,057)	
Subtotal	31,152,062	—	(31,152,062)	
Reasonable reimbursement methodology	—	2,037,198	2,037,198	
Total program costs	$ 31,152,062	$ 2,037,198	$ (29,114,864)	

[1] See the Findings and Recommendations section.

[2] Allowable costs based on actual costs reduced to zero prior to the application of a reasonable reimbursement rate (see Finding 3).

Revised Findings and Recommendations

FINDING 1—Unallowable interrogation costs

The Los Angeles County Sheriff's Department claimed $24,340,904 in Interrogation costs for the audit period. Of this amount, $961,705 is allowable and $23,379,199 is unallowable. The unallowable costs consist of $23,000,615 in salaries and benefits and indirect costs, and $378,584 in services and supplies.

The department claimed salaries and benefits on behalf of its Internal Affairs Bureau (IAB) and its station's Unit Level, both of which conducted administrative investigations. Services and supplies were claimed by the department's IAB.

Following is a summary of unallowable salaries and benefits and related indirect costs:

Fiscal Year	IAB	Station Unit Level	Subtotal	Indirect Costs	Total
1994-95	$ 2,209,089	$ 619,803	$ 2,828,892	$ 424,814	$ 3,253,706
1995-96	1,912,740	630,384	2,543,124	235,597	2,778,721
1996-97	1,306,483	461,978	1,768,461	257,082	2,025,543
1997-98	1,203,981	483,387	1,687,368	179,524	1,866,892
1998-99	1,599,567	474,075	2,073,642	319,402	2,393,044
1999-2000	1,614,780	596,636	2,211,416	251,205	2,462,621
2000-01	1,765,791	778,348	2,544,139	249,016	2,793,155
2001-02	1,695,901	790,427	2,486,328	215,459	2,701,787
2002-03	1,949,432	591,289	2,540,721	184,425	2,725,146
Audit adjustment	$ 15,257,764	$ 5,426,327	$ 20,684,091	$ 2,316,524	$ 23,000,615

Following is a summary of unallowable services and supplies:

Fiscal Year	IAB Transcription Costs
1994-95	$ 11,218
1995-96	54,995
1996-97	22,961
1997-98	56,224
1998-99	79,784
1999-2000	47,598
2000-01	23,421
2001-02	42,397
2002-03	39,986
Audit adjustment	$ 378,584

During the course of the audit, the department did not have adequate records to substantiate the majority of its claims. As a result, we were unable to trace actual time records pertinent to employees or activities claimed or source documents that specifically identified eligible reimbursable mandated activities that were performed.

The parameters and guidelines for the program state that specific identified interrogation activities are reimbursable when a peace officer is under investigation or becomes a witness to an incident under investigation and is subjected to an interrogation by the commanding officer or any other member of the employing public safety department during off-duty time, if the interrogation could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. Section IV(C), Interrogation, identifies reimbursable activities under compensation and timing of an interrogation, interrogation notice, tape recording of interrogation, and documents provided to the employee.

In reference to compensation and timing of the interrogation pursuant to Government Code section 3303, subdivision (a), the CSM Final Staff Analysis for the parameters and guidelines adopted July 27, 2000, 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.

In reference to the interrogation notice, the Final Staff Analysis states that:

> [s]taff finds that the activity of reviewing agency complaints or other documents to prepare the notice of interrogation is a reasonable method of complying with Government Code section 3303, subdivision (c).

Relevant documentation sections of the parameters and guidelines follow:

- Section VA-1 (Salaries and Benefits) requires that the claimants identify the employees and/or show the classification of the employees involved, describe each reimbursable activity performed, and specify the actual time devoted to each reimbursable activity by each employee.

- Section VA-1 (Contract Services) requires that the claimant provide the name of the contractors who performed the services. This section also requires claimants to describe the reimbursable activities performed by each named contractor; give the number of actual hours spent on the activities, if applicable; show the inclusive dates on which services were performed; and itemize all related costs.

- 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.

Because the department did not have contemporaneous records of actual time spent, it applied a ratio of sworn-to-total cases (inclusive of non-sworn employees) on behalf of its IAB costs and a Time Study on behalf of its Unit Level costs. The department also claimed its IAB transcription costs based on the IAB's ratio of sworn-to-total cases.

Both the department's IAB and Station's Unit Level perform administrative investigations. However, the higher profile and more serious investigations are reserved for the department's IAB, whose case activities are supported by an "investigator's log." The Unit Level was not generally required to complete an investigator's log for its administrative case investigations.

We observed that both the IAB and the Unit Level (intermittently) claimed their entire administrative investigations costs, including reviewing the complaint, gathering the evidence, making telephone calls, and crafting memos and correspondence, preparing interview questions, conducting interviews, conducting interrogations, summarizing notes, preparing the investigative summary, and preparing the disposition report. The parameters and guidelines do not include the administrative investigation process as a reimbursable activity.

Pursuant to our review of the department's Unit Level May 2004 Time Study, the Unit Level also failed to account for and exclude all activity prior to the case being assigned to a Unit Level POBOR Investigation.

We discussed our preliminary findings with the county on June 2, 2005, during a status update meeting. We recommended that the department perform a Time Study for IAB and Transcription costs and a new Time Study for Unit Level costs to support allowable costs based on mandated reimbursable activities specified in the parameters and guidelines.

In a letter dated July 1, 2005, the county Auditor-Controller said that the county would conduct a three-month study that would identify how much time it takes to review complaint, assign an investigator, and prepare and present a notice to the subject. The county further stated that the study would identify whether (1) the interrogation was recorded; and (2) whether the transcription was for the subject or for a witness. Also, the county said that it would develop a percentage for the subjects' transcriptions as a component of the total transcriptions and apply this percentage to the amount previously claimed.

In a letter dated October 18, 2005, the county disagreed with our audit findings and included a Supplemental Report of Specified Costs, which identified additional costs the department requested us to consider. These supplemental costs were not included in the filed claims; therefore, they are not reflected in this report's Schedule 1, Summary of Program Costs. The county contends that conducting prompt, thorough, and fair POBOR investigations imposes costs mandated by the State under Government Code section 17514.

IAB Costs

We determined that the department's entire IAB claims, totaling $15,257,764 in salaries and benefits and $1,718,067 in related indirect costs for the audit period are unallowable. The department's application of a ratio of sworn-to-total cases (inclusive of non-sworn employees) represented an estimate of the investigators' time rather than actual time spent. Further, we question the reliability of the department's methodology. Our specific concerns are as follows:

- The investigators' case activity logs generally did not include actual time spent. We also noted multiple log activities on the same date for two or more open cases. Some cases were reassigned in the middle of the investigation, and both investigators included the same case in their ratio of sworn to total cases. These errors would have affected the reliability of the department's methodology of applying a ratio of sworn to total cases to derive reimbursable costs.

- The investigator's log included several non-reimbursable activities claimed under POBOR, including setting up the case file, reviewing the initial complaints, contacting other departments, gathering evidence, contacting interviewees, preparing interview questions, transcribing interviews, editing and proofreading transcripts, preparing investigation status updates, preparing disposition investigative case summary reports, and attending executive case reviews.

- We analyzed a sample of investigators' activity logs for selected POBOR cases to determine the actual number of activity dates posted in the activity logs. We compared that number with the investigators' average number of dates claimed, based on the ratio of sworn to total POBOR cases, to derive actual number of days claimed. We determined that the number of days claimed did not correlate with, and was significantly higher than, the number of days (activity dates) posted to the investigator's activity log.

- The department's ratio of sworn to total cases methodology assumed that each investigator's time was 100% case-related; the methodology did not consider the investigators' time for non-case activities, such as administrative tasks, meetings, training, participation on promotional examination panels, meeting shooting-range qualification requirements, etc.

We reviewed the county's Supplemental Report of Specified Costs (included with the county's letter dated October 18, 2005). We determined that the department's IAB supplemental costs of four hours per case—based on 2,213 cases totaling $527,726—were not based on a new time study. Rather, it relied on the Unit Level May 3, 2004, time study that was based on an entirely different caseload. Furthermore, we previously determined that the four hours claimed by the Unit Level under Interrogations were included in the 9.71 hours we previously determined to be unallowable. Consequently, there is no merit to the IAB's supplemental costs. On January 16, 2006, we notified the county of our findings.

On February 8, 2006, nine days prior to the exit conference, the county's SB 90 Coordinator advised us that the IAB had, in fact, conducted its own time study, for the three-month period of October through December 2005.

On February 9, 2006, we reviewed the time study and determined the following: (1) the IAB had no time study plan; (2) only 30 of the 50 investigators selected in the sample responded; (3) the department did not provide an explanation for the 20 other investigators that did not

respond, or what the fiscal impact was on the final time study results; and (4) the department did not state whether the employees were at risk of disciplinary action.

The time study was limited to "the time it takes to review and prepare for each sworn subject interview" for each investigation. Reviewing and preparing for interviews is not reimbursable. Rather, this activity is part of the administrative investigation process that we had previously determined to be unallowable.

Furthermore, per our review of the 30 investigators who did respond, we determined that the time study log hours, by case, ranged from 1.5 to 28 hours, depending on the type and complexity of investigation, amount of evidence to be gathered, number of complainants, number of witnesses (sworn and non-sworn), and number of peace officer subjects. As a result, the time study appeared to be unreliable and inappropriate for the purposes of projecting the total population in the audit period because of the varying level of time and the non-repetitive nature of the activity.

Our other concerns included:

- The department did not indicate whether the type of case selected, employee universe, and/or time period was representative of activities incurred during the audit period;
- The department did not support that the time study results could reasonably be projected to approximate actual results; and
- The time study log records did not include the investigator's signature to validate whether the work was actually performed.

Unit Level Costs

The department claimed $6,006,207 in salaries and benefits and $662,931 in related indirect costs for the audit period. We determined that $644,354 is allowable and $6,024,784 is unallowable. The unallowable costs consist of $5,426,327 in salaries and benefits and $598,457 in related indirect costs.

In reviewing the Unit Level costs claimed, we identified three audit adjustments.

1. The department did not adjust its original claim for the two-hour differential on 7,595 cases, totaling $766,257 in salaries and benefits for the period of July 1, 1994, through June 30, 2002. The department's initial claim was based on its first time study, conducted in fiscal year (FY) 2001-02, which showed that it took an average of 14 hours to complete 85% of its cases under Interrogations.

   In a report dated October 15, 2003 (Report No. 2003-106), the Bureau of State Audits (BSA) determined that the department's time study for FY 2001-02 was based on telephone interviews and informal estimates developed after the related activities were

performed, rather than on contemporaneous records. As a result, the department performed a new five-month time study of its Unit Level on May 3, 2004, that determined that each case took an average of 12 hours under Interrogation. The department did not file an amended claim for the two-hour differential (14 to 12 hours) for the period of July 1, 1994, through June 30, 2002, because it believed that the statute to file an amended claim had expired.

2. The department claimed "operation of a vehicle/preventable accident cases," consisting of 3,147 out of 7,595 Unit Level cases at 12 hours per case, totaling $2,201,286 in salaries and benefits. These types of investigations typically do not involve an interview or interrogation regarding the alleged violation, though the peace officer may be subject to disciplinary sanctions. Therefore, the department did not incur any mandated costs under Interrogation. Also, beginning March 2004, the department started a pilot program in which all preventable collisions will be processed using a new procedure in which no IAB case number is assigned and traditional disciplinary sanctions are suspended, unless the infraction involves policy violations.

3. The May 3, 2004, time study supported only 2.29 hours that related to reimbursable interrogation costs out of the total of 12 hours. The time study did not support any mandated reimbursable activities for the remaining 9.71 hours. Accordingly, based on 4,448 of the 7,595 cases, the unallowable costs totaled $2,458,784 in salaries and benefits. The time study also did not separately identify each reimbursable activity defined in the parameters and guidelines. Several investigator logs commingled reimbursable with non-reimbursable activities, preventing us from segregating and identifying eligible reimbursable time.

The department claimed ineligible activities occurring prior to the case ever being assigned to a Unit Level investigation. Some of the activities included taking the initial complaint, interviewing the complainant parties and witnesses, and reviewing the case as to whether it warranted being assigned to a Unit Level Investigation. In addition, the department included ineligible administrative investigative activities, such as gathering evidence, preparing interview questions, interviewing complainants, interviewing witnesses, interviewing subjects, re-writing notes, communicating with other departments, preparing memos and follow-up documents, reviewing case material in preparation for Statement of Facts, preparing Investigative Summary and Disposition reports, and assembling case files.

The May 3, 2004 time study originally was based on the selection of 44 Unit Level cases, out of which only 15 case investigators responded. The department later added 3 additional cases, bringing the total number of cases to 18. However, 4 out of the 18 cases represented "operation of a vehicle" cases that we had excluded in Adjustment No. 2, above. Consequently, only 14 cases were subject to an interrogation, of which 11 were from the original sample selection.

We had additional concerns regarding the time study that the county did not address. Specifically:

- Why 75% of the initial cases (33 of the 44) were excluded and the projected impact on the final time study results.
- Why and how three additional cases were later added and the impact on the final time study results.
- Whether the timeframe, types of cases selected, and 11 cases ultimately responded to were representative of the universe.
- The appropriateness of the time study for activities that did not appear to be repetitive in nature because of the varying levels of activities based on the number and type of alleged violations, number of people interviewed, and complexity of the cases.
- The lack of follow-up on investigator logs that were incomplete or unsigned.

In the county's Supplemental Report of Specified Costs (included with the county's letter dated October 18, 2005), the department requested us to consider additional 2.04 hours, totaling $1,177,023, based on 7,595 cases. However, these costs were based on the same cases sampled from the May 3, 2004 time study that we had previously determined to be ineligible under Interrogation. Consequently, audit results remain the same. On January 16, 2006, we notified the county of our findings.

Following is a summary of unallowable Unit Level salaries and benefits related to Interrogation:

Fiscal Year	Adjustment No. 1 [1]	Adjustment No. 2 [2]	Adjustment No. 3 [3]	Total
1994-95	$ 98,659	$ 220,916	$ 300,228	$ 619,803
1995-96	100,277	226,703	303,404	630,384
1996-97	73,325	171,152	217,501	461,978
1997-98	76,843	175,373	231,171	483,387
1998-99	74,517	197,968	201,590	474,075
1999-2000	93,849	247,087	255,700	596,636
2000-01	125,205	237,231	415,912	778,348
2001-02	123,582	350,340	316,505	790,427
2002-03	—	374,516	216,773	591,289
Audit adjustment	$ 766,257	$2,201,286	$2,458,784	$5,426,327

[1] Unsupported 2 hours (14 hours – 12 hours) in amended Unit Level time study

[2] Unsupported operation of vehicle preventable accident cases

[3] Unsupported 9.71 hours (of 12 hours) in amended Unit Level time study

Transcription Costs

The department claimed transcriptions costs on behalf of the IAB under Services and Supplies. The department "erroneously" applied IAB's caseload ratios of sworn-to-total cases (inclusive of non-sworn

employees) to claim transcription services costs for the audit period. The department claimed $695,935 out of $1,069,574, comprising 65.07% of the total cost.

We selected a random sample of vendor invoices for FY 2002-03 to test the eligibility of costs, based on available supporting documentation. The department incurred transcription costs for interviews with complainants, witnesses, and subjects. The department's database had sufficient information for us to determine whether each transcription pertained to a civilian, sworn employee, or non-sworn employee. The parameters and guidelines allow transcription costs when the peace officer employee records the interrogation.

Based on the transcriptions, we sampled invoices totaling $24,511 and made a preliminary determination that not more than $13,613 (55.54%) appeared eligible. The eligible costs supposedly included only those cases in which the officers and/or their representatives had tape-recorded the interrogation. However, we later learned that peace officer witnesses are not allowed to tape record their interview session.

In the county's Supplemental Report of Specified Costs, provided to us in a letter dated October 18, 2005, the county identified $591,817. We later determined that the department's criteria was based on "persons requesting their interrogations to be recorded" instead of on those who actually tape-recorded the interrogation as required by the parameters and guidelines. In addition, the supplemental cost was based on a percentage that was applied against erroneous amounts derived from the IAB's ratio of sworn-to-total cases. Based on this information, we determined that the supplemental costs were unsupported and based on erroneous conclusions, and therefore none of the supplemental costs were reimbursable.

On December 2, 2005, in a follow-up meeting with the county, we explained that our initial random test results of 55.54%, which included both sworn peace officer witnesses and subjects, was originally intended to test the department's ability to extract information. The county asked whether we could apply our test results' percentage to the department's total transcription costs in order to derive allowable costs. We later agreed.

However, the department's administrative investigation manual states that sworn peace officer witnesses are not authorized to record their interrogations. Therefore, we excluded the portion represented by peace officer witnesses. Doing so reduced the percentage, from 55.54% to 38.83%. We applied 38.83% against the department's transcription costs, net of shooting/rollout exercises, totaling $939,256 ($1,069,574 – $130,318), resulting in costs of $364,713 for all sworn peace officer subjects. We applied this amount against 87.0130% (67 out of 77) of the officers or their representatives who tape-recorded their interrogations, based on the department's three-month study, from July 1, 2005, through September 30, 2005, to arrive at allowable transcription costs of $317,351. The remaining balance of $378,584 ($695,935 less $317,351) is unallowable.

Recommendation

We recommend that the county establish a system to track reimbursable mandated costs, based on the activities defined in the parameters and guidelines, to ensure that costs claimed are eligible increased costs and are supported by appropriate documentation.

County's Response

> We have examined SCO's draft audit report, allowing only $1,313,050, or 4.2% of the $31,152,062 POBOR's costs incurred during the audit period July 1, 1994 through June 30, 2003. Of the $29,839,012 of unallowable costs, 'interrogation' costs accounted for $23,379,199 and 'administrative appeal' costs accounted for $6,459,813.
>
> Our review focused on determining whether SCO's revisions to the County's time study supporting 'interrogation' costs were mathematically accurate and in compliance with the POBOR's reimbursement rulings promulgated by the Commission on State Mandates [Commission].
>
> As explained in the enclosed report, mathematical errors appear to have been made in SCO's reductions in the County's time study results. Further, SCO's analysis excludes investigative time, which is explicitly allowed in Commission's rulings.
>
> After analysis of SCO's draft audit report, we now believe that $8,790,963 of our claimed POBOR's costs are allowable, including 'interrogation' costs of $8,473,648 [sic*], as detailed in the County's enclosed report, and 'administrative appeals' costs of $353,352, as stated in SCO's draft audit report.
>
> We recognize that POBOR's reimbursement rules are complex and subject to interpretation. In this regard, we would like to meet and confer with you and your staff to discuss the possibility of resolving our differences in a timely manner.

Following is a summary of the allowable costs based on the county's response:

	Allowable Per County		
	Unit Level Costs	IAB Costs	Total
Interrogation costs:			
Transcription costs	$ —	$ 317,351	$ 317,351
Investigation costs	3,585,598	1,054,551	4,640,149
Other costs	2,689,198	790,913	3,480,111
Total allowable costs	$ 6,274,796	$ 2,162,815	$ 8,437,611

The county believes that allowable costs should be $8,437,611, rather than the $961,705 reported by the SCO, a difference of $7,475,906. Of that amount, $4,640,149 relates to investigation costs and $2,835,757 relates to what the county believed were material mathematical errors.

* This amount should be $8,437,611.

SCO's Comment

The finding remains unchanged.

Following is a summary of the differences between claimed costs and allowable costs identified by the SCO and the county, and the resulting unallowable costs:

	Unit Level Costs	IAB Costs	Total
Per SCO Audit			
Claimed costs	$ 6,669,138	$ 17,671,766	$ 24,340,904
Allowable costs:			
Transcription costs	—	(317,351)	(317,351)
Other costs	(644,354)	—	(644,354)
Total allowable costs	(644,354)	(317,351)	(961,705)
Unallowable costs	$ 6,024,784	$ 17,354,415	$ 23,379,199
Per County Analysis			
Claimed costs	$ 6,669,138	$ 17,671,766	$ 24,340,904
Allowable costs:			
Transcription costs	—	(317,351)	(317,351)
Investigation costs	(3,585,598)	(1,054,551)	(4,640,149)
Other costs	(2,689,198)	(790,913)	(3,480,111)
Total allowable costs	(6,274,796)	(2,162,815)	(8,437,611)
Unallowable costs	$ 394,342	$ 15,508,951	$ 15,903,293
Differences in unallowable costs	$ 5,630,442	$ 1,845,464	$ 7,475,906

Based on its time study, the county believes that allowable interrogation costs should be $8,437,611, rather than the claimed $24,240,904, an overstatement of claimed costs by $15,903,293. The county believes that allowable costs consist of $317,351 in transcription costs, $4,640,149 in investigation costs, $2,689,198 in other Unit Level costs, and $790,913 in other IAB costs.

We determined that $317,351 in transcription costs was supported and allowable.

We continue to disagree with the county that investigation costs are reimbursable. On April 26, 2006, the CSM reviewed its original findings and adopted, on reconsideration, a Statement of Decision, which became final on May 1, 2006. On December 4, 2006, the CSM adopted amended the parameters and guidelines that apply to costs incurred and claimed for FY 2006-07 and subsequent years. The amendments also clarify that investigation costs are not reimbursable.

Of the $2,689,198 in other Unit Level costs that the county believes is allowable, we allowed $644,359 based on the county's time study, a difference of $2,044,839. In responding to the draft report, the county requested a meeting with SCO staff to discuss the possibility of resolving the difference in a timely manner. We met with the county's SB 90 Coordinator on August 2, 2006, and discussed the reimbursable activities and what the county believes are material mathematical errors in the SCO's analysis of the county's time study. At the August 2, 2006

meeting, we discussed in detail our methodology used in analyzing the county's time study and in developing the audit findings. After lengthy discussion, the county's SB 90 Coordinator acknowledged that our methodology in determining allowable Unit Level costs was not flawed or inaccurate, and that we did not make the material mathematical errors as previously identified in the county's response. The county mistakenly based its response on county-prepared documents rather than SCO worksheets. The county also acknowledged that it was unable to support a portion of reimbursable costs because its time study did not discretely separate costs between eligible and ineligible activities.

We also continue to believe that the county's methodology for determining the allowability of $790,913 in other IAB costs is invalid for the specific reasons stated in the finding. The costs were initially based on estimates and subsequently revised based on the Unit Level time study, which was based on an entirely different caseload.

At the August 2, 2006 meeting, we reiterated that if the county performs a valid time study or provides other corroborating documentation supporting additional allowable costs, we would evaluate the documentation and revise the final report, as appropriate.

Subsequent to the issuance of the final report, the county requested that it be allowed to apply a reasonable reimbursement methodology (RRM) to the county's claims; we concurred with the county's request. This issue is addressed separately in Finding 5.

FINDING 2—Unallowable administrative appeal costs

The Los Angeles County Sheriff's Department claimed $6,813,158 in Administrative Appeal costs for the audit period. Of this amount, $353,352 is allowable and $6,459,806 is unallowable. The unallowable costs consist of $3,519,167 in salaries, benefits, and related indirect costs, and $2,940,639 in services and supplies.

The department, on behalf of its Advocacy Unit Support Staff, Advocacy Counsel Staff, and Outside Attorney Fees, claimed salaries and benefits and services and supplies.

Following is a summary of unallowable salaries and benefits, and related indirect costs:

	Advocacy Unit		
Fiscal Year	Support Staff	Indirect Costs	Total
1994-95	$ 319,797	$ 48,025	$ 367,822
1995-96	510,794	47,320	558,114
1996-97	446,827	64,955	511,782
1997-98	421,762	44,870	466,632
1998-99	380,338	58,584	438,922
1999-2000	325,873	37,017	362,890
2000-01	394,676	38,631	433,307
2001-02	349,418	30,280	379,698
2002-03	—	—	—
Audit adjustment	$ 3,149,485	$ 369,682	$ 3,519,167

Following is a summary of unallowable services and supplies.

	Advocacy Unit		
Fiscal Year	Counsel Staff	Outside Attorney Fees	Total
1994-95	$ 132,066	$ —	$ 132,066
1995-96	131,199	—	131,199
1996-97	114,131	—	114,131
1997-98	105,498	—	105,498
1998-99	90,999	22,769	113,768
1999-2000	130,556	397,834	528,390
2000-01	353,903	460,885	814,788
2001-02	424,973	420,957	845,930
2002-03	150,597	4,272	154,869
Audit adjustment	$ 1,633,922	$ 1,306,717	$ 2,940,639

The parameters and guidelines provide for a limited number of identified Administrative Appeal activities that are reimbursable when they provide the opportunity for, and the conduct of, an administrative appeal for specified disciplinary actions. (See Finding 1 for relevant documentation sections of the parameters and guidelines.)

Advocacy Unit Support Staff

The department claimed salaries and benefits totaling $3,149,485 for Administrative Appeal activities on behalf of its Advocacy Unit Support Staff. For the period of July 1, 1994, through June 30, 2000, the Advocacy Unit Support Staff erroneously claimed $2,405,391 because it applied IAB's caseload ratios of sworn-to-total cases (inclusive of non-sworn employees). It did so because its database crashed and it did not have adequate records to substantiate whether actual time spent pertained to POBOR-related activities. The Advocacy Unit Support Staff's caseload, which consists of assisting counsel staff, is totally unrelated to IAB's administrative investigation caseload.

For the period of July 1, 2000, through June 30, 2002, the Advocacy Unit Support Staff claimed $744,094 based on its ratio of sworn-to-total cases, which is not a valid methodology. The department also claimed administrative activities that preceded the filing of an administrative appeal and/or activities covered under due process. The parameters and guidelines allow for reimbursement for only a limited number of sanctions involving specific types of discipline for sworn officers with certain employment statuses. The parameters and guidelines do not provide for administrative appeals on behalf of permanent officers subject to disciplinary dismissal, demotion, suspension, salary reductions, or written reprimand. The Advocacy Unit Support Staff did not file a claim for FY 2002-03.

We discussed our finding on June 2, 2005, during a status update meeting. We recommended that the department consider performing a time study on mandated reimbursable activities for the period for which case records were available, commencing from July 1, 2000.

In a letter dated July 1, 2005, the county Auditor-Controller did not address the Advocacy Unit Support Staff costs and the county did not submit any supplemental claims.

Therefore, we determined that the department did not have adequate records to substantiate its claim for its Advocacy Unit Support Staff under Administrative Appeal.

Advocacy Unit Counsel Staff

The department claimed services and supplies totaling $1,633,922 for Administrative Appeal activities on behalf of its Advocacy Unit Counsel Staff. For the period of July 1, 1994, through June 30, 2000, the Advocacy Unit Counsel Staff erroneously claimed $704,449 because it applied IAB's caseload ratios of sworn-to-total cases (inclusive of non-sworn employees). It did so because its database crashed and it did not have adequate records to substantiate whether actual time spent pertained to POBOR-related activities. The Advocacy Unit Support Staff's caseload, which consists of assisting counsel staff, is totally unrelated to IAB's administrative investigation caseload.

For the period of July 1, 2000, through June 30, 2003, the Advocacy Unit Counsel Staff claimed $929,473, based on its ratio of sworn-to-total cases; this was not a valid methodology. We also noted that the Counsel Staff claim decreased by 65% in FY 2002-03 following the BSA audit.

Furthermore, Counsel Staff claimed 100% of its time spent on sworn cases. As previously noted, the parameters and guidelines allow for reimbursement of only a limited number of specified activities. The Advocacy Unit is entitled only to specifically mandated Counsel Staff activities that can be properly documented and supported, including actual time spent, that resulted in increased costs.

In a report dated October 15, 2003, the BSA stated that, for FY 2001-02, the Advocacy Unit claimed in excess of $100,000 on behalf of a Counsel Staff member who never worked on appeals. It stated that the claim was primarily based on reviewing and writing charges for personnel complaint cases. It also noted that the Advocacy Unit estimated that only 10% to 25% of its administrative appeals for sworn cases may pertain to the disciplinary actions listed in the parameters and guidelines after January 1, 1999, but the Advocacy Unit did not provide any documentation to support its estimate.

Counsel Staff claimed:

- Non-mandated administrative activities related to the reviewing and writing of charges that preceded the filing of an administrative appeal.
- Activities covered under due process related to appeals of permanent peace officers recommended for dismissal, demotion, suspension, salary reductions, or written reprimand.
- For its time spent on non-case related activities, such as negotiating and reviewing outside attorney contracts and billing statements for legal action against the department, attending meetings, attending continuing education, etc.

We discussed our finding on June 2, 2005, at a status update meeting. We recommended that the department consider performing a time study on mandated reimbursable activities for the period in which case records were available, commencing from July 1, 2000.

In a letter dated July 1, 2005, the county Auditor-Controller did not address the Advocacy Unit Counsel Staff costs and the county did not submit any additional documentation.

Therefore, we determined that the department did not have adequate records to substantiate its claim for its Advocacy Unit Counsel Staff under Administrative Appeals.

Outside Attorney

The department claimed $1,660,069 for outside counsel, beginning with FY 1998-99. However, in a report dated October 15, 2003, the BSA noted that outside attorneys, contracted by the Sheriff's Department, were primarily defending the department in Superior Court, and therefore these costs were not eligible for reimbursement.

We worked with Advocacy Unit Counsel Staff and Support Staff to review outside attorney cases that may have applied to the mandate during the audit period. The majority of outside counsel fees claimed were unsupported—staff either did not recognize the law firm, services were for other than an administrative appeal, and/or cases were subject to due process.

Based on the foregoing, we determined that $353,352 was supported and $1,306,717 was unsupported under Administrative Appeals.

Recommendation

We recommend that the county establish a system for tracking reimbursable mandated costs based on the activities defined in the parameters and guidelines, in order to ensure that costs claimed are eligible increased costs and are supported by appropriate documentation.

County's Response

The county stated that, after analysis of the SCO's draft audit report, it now believes that administrative appeals costs of $353,352, as stated in the SCO's draft audit report, are allowable.

SCO's Comment

Subsequent to the issuance of the final report, the county requested that it be allowed to apply a RRM to the county's claims; we concurred with the county's request. This issue is addressed separately in Finding 5.

FINDING 3—Unallowable administrative activities: training costs

The department did not file a claim with the SCO under Administrative Activities and, accordingly, no cost was reflected in this report's Schedule 1, Summary of Program Costs.

At a June 2, 2005, status update meeting with the county, we noted that the department did not claim any Administrative Activities costs. We advised the county that we would review any reimbursable costs that the department could support and apply them against any available audit adjustments by fiscal year.

In a letter dated October 18, 2005, the county submitted a Supplemental Report of Specified Costs requesting the SCO to review training costs, totaling $138,695, under Administrative Activities.

We reviewed the costs and determined them to be unallowable based on the following facts:

- The majority of the documentation provided by the department was for activities outside of the audit period.
- Some training costs claimed (i.e., field operations school training), based on the department's own documentation, indicated that the training did not relate to POBOR.
- The department claimed costs on behalf of deputies, who generally are not involved in administrative investigations.
- Not all training material included agendas. When the training material did include agendas, no evidence existed that any of the training pertained to the requirements of the mandate.
- The course descriptions were not descriptive enough.
- Although some agendas included estimated time by area, no specific time was allocated by topic or line item.
- The department did not provide evidence that the training documents presented for our review were representative of the universe or that the results could be reasonably projected to approximate actual costs in the audit period.

The parameters and guidelines state that specific Administrative Activities are reimbursable when they relate to ongoing attendance activities at human resources, law enforcement, and legal counsel training specific to the requirements of the mandate. (See Finding 1 for relevant documentation sections of the parameters and guidelines.)

In summary, the department did not provide supporting source documents and/or other information to verify that the training related to the requirements of the mandate. We were unable to identify the amount of time devoted to each area of the training, including training time dedicated to POBOR mandate-related activities. Therefore, we determined that the $138,695 in supplemental training costs was unsupported and unallowable.

Recommendation

We recommend that the county establish a system for tracking reimbursable mandated costs based on the activities defined in the parameters and guidelines in order to ensure that costs claimed are eligible increased costs, and are supported by appropriate documentation.

SCO's Comment

The county did not respond to this finding.

Subsequent to the issuance of the final report, the county requested that it be allowed to apply a RRM to the county's claims; we concurred with the county's request. This issue is addressed separately in Finding 5.

FINDING 4—Unallowable adverse comment costs

The department did not file a claim with the SCO under Adverse Comment and, accordingly, no cost was reflected in this report's Schedule 1, Summary of Program Costs.

At a June 2, 2005, status update meeting with the county, we noted that the department did not claim any Adverse Comment costs. We advised the county that we would review any reimbursable costs that the department could support and apply them against any available audit adjustment by fiscal year.

In a letter dated July 1, 2005, the county Auditor-Controller stated that the county would conduct a three-month study to determine the amount of time it takes to get a subject to sign an adverse comment.

In a letter dated October 18, 2005, the county submitted a Supplemental Report of Specified Costs and requested the SCO to review costs related to Adverse Comment. The department maintained that it took an average of 3.67 hours on 5,351 founded cases, totaling $1,224,813, to perform mandate-related reimbursable activities under Adverse Comment. We reviewed the costs and determined them to be unallowable.

In our review, we determined that the department did not perform a new time study. Rather, the department requested the SCO to allow 3.67 from the 9.71 hours we previously determined to be unallowable under Interrogation at the Unit Level, pursuant to the department's May 2004 time study. In addition, per our re-review, none of the activities claimed by the department under Adverse Comment were for reimbursable mandate-related activities. Instead, the activities were part of the administrative investigation process conducted by Unit Level investigator staff. Accordingly, the department's Supplemental Report of Specified Costs under Adverse Comment, totaling $1,224,813, was unsupported and unallowable.

The parameters and guidelines for Adverse Comment identify specific reimbursable activities upon receipt of an adverse comment, e.g., providing notice of the adverse comment, providing an opportunity to review and sign the adverse comment, and noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances. The parameters and guidelines do not identify administrative investigation as a reimbursable activity. (See Finding 1 for the relevant documentation section of the parameters and guidelines.)

Recommendation

We recommend that the county establish a system for tracking reimbursable mandated costs based on the activities defined in the The parameters and guidelines, in order to ensure that costs claimed are eligible increased costs and are supported by appropriate documentation.

SCO's Comment

The county did not respond to this finding.

Subsequent to the issuance of the final report, the county requested that it be allowed to apply a RRM to the county's claims; we concurred with the county's request. This issue is addressed separately in Finding 5.

FINDING 5—Application of reasonable reimbursement methodology (RRM)

We received an e-mail from Hasmik Yaghobyan, SB 90 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 2002-03.

We concur that the county's request is reasonable. Consequently, we allowed $2,037,197 in costs using the FY 2006-07 CSM-adopted RRM as a basis in determining reimbursable costs for FY 1994-95 through FY 2002-03. 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. The rate is adjusted annually by the Implicit Price Deflator (IPD) referenced in Government Code section 17523. The CSM determined the RRM to be $33.22 for FY 2004-05 and $35.35 for FY 2005-06. The IPDs used to determine the RRM rate for the audit period are based on consumer price index information for state and local purchases obtained from the Department of Finance related to National Deflators, dated November 2009. The current version of this document can be found at http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS Price.htm.

The following table summarizes the allowable costs for each fiscal year based on the methodology described above:

Fiscal Year	Number of Officers		RRM Rate		Allowable Costs
1994-95	7,826	×	$ 24.45	=	$ 191,346
1995-96	8,022	×	25.01	=	200,630
1996-97	8,005	×	25.55	=	204,528
1997-98	8,077	×	25.96	=	209,679
1998-99	8,137	×	26.51	=	215,712
1999-2000	8,472	×	27.59	=	233,742
2000-01	8,889	×	28.67	=	254,848
2001-02	8,974	×	29.28	=	262,759
2002-03	8,697	×	30.35	=	263,954
Total					$ 2,037,197

OTHER ISSUE—Reported payment information

In its response to the draft report, the county stated that it believes the reported payment is inaccurate. Following is the county's response and the SCO's comment.

County's Response

> Also, a minor error was noted in SCO's computation of POBOR's claims paid the County. The County received payments in the amount of $5,440,296, not the $5,440,458 reported by SCO.

SCO's Comment

The payment amount reported in the draft audit report is accurate. The difference of $162 relates to a payment offset made in FY 2002-03 for an overpayment made in another mandate program.

Attachment A—
County's Response to
Revised Final Audit Report

COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER

KENNETH HAHN HALL OF ADMINISTRATION
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ROBERT A. DAVIS
JOHN NAIMO
JUDI E. THOMAS

February 9, 2010

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 REVISED AUDIT REPORT
PEACE OFFICER'S PROCEDURAL BILL OF RIGHTS (POBOR)
JULY 1, 1994 THROUGH JUNE 30, 2003

The County of Los Angeles has reviewed the State's revised audit report dated January 11, 2010 for POBOR's program, for the period July 1, 1994 through June 30, 2003. The revised audit report concluded that, of the $31,152,062 claimed under POBOR, $2,037,198 is allowable. The remaining $29,114,864 is not allowable pursuant to the Parameters and Guidelines adopted by the Commission on State Mandates on July 27, 2000.

The County agrees with the revised audit findings whereby the State, per the County's request, applied a reasonable reimbursement methodology to the audit period. This has caused the allowable costs to increase by $724,141 from $1,313,057 to $2,037,198 per the State's initial audit for the audit period.

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

Wendy L. Watanabe
Auditor-Controller

WLW:MMO:JN:CY:hy
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Attachment B—
County's Response to
Draft Audit Report

COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
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J. TYLER McCAULEY
AUDITOR-CONTROLLER

June 27, 2006

Mr. James L. Spano, Chief
Compliance Audits Bureau
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, California 94250-5874

Dear Mr. Spano:

Los Angeles County's Response
State Controller's Office [SCO] Draft Audit Report
Peace Officers Procedural Bill of Rights [POBOR]

We have examined SCO's draft audit report, allowing only $1,313,050, or 4.2% of the $31,152,062 POBOR's costs incurred during the audit period July 1, 1994 through June 30, 2003. Of the $29,839,012 of unallowable costs, 'interrogation' costs accounted for $23,379,199 and 'administrative appeal' costs accounted for $6,459,813.

Our review focused on determining whether SCO's revisions to the County's time study supporting 'interrogation' costs were mathematically accurate and in compliance with the POBOR's reimbursement rulings promulgated by the Commission on State Mandates [Commission].

As explained in the enclosed report, mathematical errors appear to have been made in SCO's reductions in the County's time study results. Further, SCO's analysis excludes investigative time, which is explicitly allowed in Commission's rulings.

After analysis of SCO's draft audit report, we now believe that $8,790,963 of our claimed POBOR's costs are allowable, including 'interrogation' costs of $8,473,648, as detailed in the County's enclosed report, and 'administrative appeals' costs of $353,352, as stated in SCO's draft audit report.

We recognize that POBOR's reimbursement rules are complex and subject to interpretation. In this regard, we would like to meet and confer with you and your staff to discuss the possibility of resolving our differences in a timely manner.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

J. Tyler McCauley
Auditor-Controller

JTM:CY:LK
Enclosures

Los Angeles County's Response
State Controller's Office [SCO] Draft Audit Report
Peace Officers Procedural Bill of Rights [POBOR]

We have examined SCO's draft audit report, allowing only $1,313,050, or 4.2% of the $31,152,062 POBOR's costs incurred during the audit period July 1, 1994 through June 30, 2003. Of the $29,839,012 of unallowable costs, 'interrogation' costs accounted for $23,379,199 and 'administrative appeal' costs accounted for $6,459,813.

Our review focused on determining whether SCO's revisions to the County's time study supporting 'interrogation' costs were mathematically accurate and in compliance with the POBOR's reimbursement rulings promulgated by the Commission on State Mandates [Commission].

As explained below, mathematical errors appear to have been made in SCO's reductions in the County's time study results. Further, SCO's analysis excludes investigative time, which is explicitly allowed in Commission's rulings.

After analysis of SCO's draft audit report, we now believe that $8,790,963 of our claimed POBOR's costs are allowable, including 'interrogation' costs of $8,473,648, as detailed below, and 'administrative appeals' costs of $353,352, as stated in SCO's draft audit report.

Interrogation Costs

SCO's finding, that $23,379,199 of claimed POBOR's interrogation costs is unallowable, appears to be erroneous. Our review of SCO's analysis disclosed material computational errors[1]. As a result, the County's time study, supporting interrogation costs, appears to have been inappropriately adjusted. As a consequence, claimed costs appear to have been incorrectly reduced.

In addition, SCO omitted investigation costs which we incurred to implement POBOR's interrogations. We believe are these costs are reimbursable as Investigation costs are not prohibited in Commission's Parameters and

[1] Also, a minor error was noted in SCO's computation of POBOR's claims paid the County. The County received payments in the amount of $5,440,296, not the $5,440,458 reported by SCO.

Guidelines. In fact, such costs are explicitly allowed in Commission's Statement of Decision, which states, on page 13, that "... Conducting the investigation ... imposes "costs mandated by the state" under Government Code section 17514".

Time Study Analysis

SCO's methodlogy in reducing 'interrogation' time measured in the County's time study is best illustrated by examining SCO's notation to County's time study results for 18 participants, attached as Table 1.

It should be noted that the County has agreed with SCO staff that four cases involving "operations of vehicles" should be removed from the time study sample. These cases involve little or no investigative time and are not representative of POBOR's cases. However, the method used by SCO in removing these cases appears to be erroneous.

On Table 1, in the far right column, we believe that SCO staff mistakenly adjusted the sample by subtracting 1,282 minutes or 22.22% of the 5,771 minutes from the total reimbursable time. SCO staff incorrectly assumed that the 4 cases to be removed were average cases. In fact, this was not so. The "operations of vehicle" cases, were removed precisely because these case involved little or no time. Therefore, removing these small hourly cases from the sample actually results in a greater number of large hourly scores remaining. All things being equal, this should have resulted in a greater average time per case, not the 2.29 hours per case found by SCO.

A further error in SCO's methodology was that SCO appears to have forgotten to divide the reduced hours, due to the elimination of "operations of vehicles" cases, by 14, the reduced number of cases. Instead, SCO staff divided the reduced number of hours by 18 cases, including the 4 "operations of vehicles" cases. As a result, SCO's reductions appear to be overstated.

In this report, the County now proposes to adjust its time study to reflect the elimination of "operations of vehicle" cases. In Table 2 [attached], 4 "operations of vehicle" cases are removed from the sample. This results in an average time [for the remaining 14 cases] of 5.98 hours or 6 hours per case.

It should be noted SCO staff, as evidenced in Table 1 [attached], continued to reduce their 'average' time of 4.16 hours by an additional 1.7 hours to reflect

a purported percentage of "operations of vehicle" cases in the 'population'. This reduction of 41% of the cases is in addition to the initial reduction of 22.22%. But here, there is no basis for a further reduction as that reduction was supposed to have been included in the 22.22% reduction.

To make matters worse, SCO staff apply an even further reduction, by reducing the number of cases which are subject to reimbursement by 41%. As previously noted, 22.22% of the number of cases in the time study sample were not subject to reimbursement. But that clearly means that the proper reduction in the number of case should be 22.22% and only 22.22%.

Accordingly, the County has recomputed the interrogation costs of POBOR's cases, excluding "operations of vehicle" cases, using the 6 hours per case result, which excludes investigation costs. Table 4 [attached] details the computation of $2,689,198 of unit level costs and Table 6 [attached] provides similar cost computations, totaling $790,913, for Internal Affairs Bureau [IAB] cases[2].

Investigation Costs

The County continues to maintain that implementation of the POBAR's program requires the County to conduct prompt, thorough, and fair investigations and that such investigative costs are reimbursable. SCO staff appear to disagree and find no allowable investigative costs --- not even the modest 8 hours per case documented in the County's time study as revised herein.

Table 5 [attached] details the computation of unit level investigation and other activity costs, based on a measured time of 8 hours for investigation activities and 6 hours for other activities or a total of 14 hours per case. Including investigation time results in unit level costs of $6,274,796 --- an increase of $3,585,598 or 133% over case costs excluding investigation costs [$2,689,198], detailed in Table 4 [attached].

[2] IAB cases do not include "operations of vehicle" cases. It should be further noted that SCO staff find that IAB case costs are not allowable based on disapproval of County's ratio [of POBOR's to nonPOBOR's cases assigned to full time IAB case staff] method. However, every reimbursable POBOR's case undergoes a minimum unit-level type of processing, and so, such cases, for now, are included as unit cases. Authorized use of the ratio and other costing methods for the POBOR's reimbursement program is now pending before the Commission on State Mandates.

Table 7 [attached] details the computation of IAB level investigation and other activity costs, based on a measured time of 8 hours for investigation activities and 6 hours for other activities or a total of 14 hours per case. Including investigation time results in costs of $1,845,464 --- an increase of $1,054,551 or 133% over case costs excluding investigation costs [$790,913], detailed in Table 6 [attached].

Table 8 [attached] summarizes the County's proposed revisions to POBOR's claims submitted for costs incurred during the audit period. The proposed allowable cost is $8,790,963 and includes investigation costs, as explained below.

Allowable Investigation Costs

The County maintains that investigations necessary to interrogate are an integral and essential part of the POBOR's program. The 8 hours of investigations per case documented herein is reasonable, proper and clearly reimbursable.

The County continues to find that the requirement to conduct "prompt, thorough, and fair investigations"[3] is in the POBOR's Statement of Decision [SOD]. In this regard, the SOD plainly states, on page 13, that:

> "Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department

[3] The County uses the "prompt, thorough, and fair investigations" terminology here in order to describe the POBAR's investigative costs claimed under the "Interrogations" expense category. As noted by the Commission on page 16 of their POBAR's Statement of Decision, the California Supreme Court in *Pasadena Police Officers Association v. City of Pasadena* [[1990) 52 Cal.3d 564], supports Commission's finding that POBAR's imposed new and reimbursable duties, not required under prior law. With regard to POBAR's investigations, the Court stated:

> "To keep the peace and enforce the law, a police department needs the confidence and cooperation of the community it serves. Even if not criminal in nature, acts of a police officer that tend to impair the public's trust in its police department can be harmful to the department's efficiency and morale. Thus, when allegations of officer misconduct are raised, it is essential that the department conduct a prompt, thorough, and fair investigation. Nothing can more swiftly destroy the community's confidence in its police force than its perception that concerns raised about an officer's honesty or integrity will go unheeded or will lead only to a superficial investigation." [Emphasis added.]

> procedures are new requirements not previously imposed on local agencies and school districts.
>
> Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code section 17514." [Emphasis added.][4]

In addition, Section IV. C. of the POBAR's Ps&Gs, currently details reimbursable activities for "interrogations" to include:

> "... reimbursement for the performance of ... [investigations] ... only when a peace officer is under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for the purpose of punishment." [Emphasis added.]

Further, Section IV. C.1. of the POBOR's Ps&Gs also provides for reimbursement of "off-duty compensation" "... when required by the seriousness of the investigation" [emphasis added].

Also, claiming POBAR's investigative costs is not prohibited in Commission's SOD or Ps&Gs.

Finally, the very limited 8 hours of time claimed by the County in conducting prompt, thorough, and fair POBOR's investigations is reasonable, proper and documented by the County[5].

---

[4] The Bureau of State Audits [BSA] also recognizes that this Commission language plainly indicates that local law enforcement agencies are required to "investigate an allegation" [BSA Report, page 6].

[5] A complete copy of the County's time study report, detailing the methodology used in documenting POBOR's investigation and other costs is attached.

Table 1

Peace Officer's Procedural Bill of Rights - Time Study

Units/Stations Responded to the Time Study	Cases Number (1)																			
	Advocacy Unit	Palmdale Stn	Pico Rivera Stn	Mira Loma Det Ctr	Pitchess Det Ctr No.	Pico Rivera Stn	Court Serv. West	San Dimas Stn	San Dimas Stn	Pico Rivera Stn	Lakewood Stn	Lakewood Stn	Lakewood Stn	Safe Street Bu	Court Services West	Lakewood Stn	Norwalk Stn	Lancaster Stn		
Activities	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**Totals**	
Review of the case (2)	30	60	91	85	120	75	150	120	80	285	40	60	110	60	245	180	150	60	2,001	2,001
Conduct a case investigation (3)	90	735	428		27	365	490	1820	0	140		435	160	197	445	960	254	145	6,691	
Review of the complaint or adverse comment (4)	120	240	80	120	60	180	240	1500	160	180	80	30	60	100	240	210	50	120	3,770	3,770
Totals	240	1,035	599	205	207	620	880	3,440	240	605	120	525	330	357	930	1,350	454	325	12,462	5,771

Operations of Vehicles - 4 cases	-22.22%	-1,282
Sub-Total		4,489
Average no. of minutes excl. opr of veh.		4.16
Operations of Vehicles rep. entire pop	-41.00%	-1.70
Average no. of minutes Unit Level Interr.		2.45
No. of minutes SCO allowed		2.29

Total Number of Minutes	12,462
Number of Cases	18
Average Number of Min.	692
Avg. No. of Hours per Case	**11.54**

Footnotes:

(1) For each case number, the number of minutes recorded on the POBAR's Log to perform an activity , is indicated below.
(2) Review of the circumstances or documentation which led to initiating the POBAR's case [P's&G's, pages 3-4, 6-7].
(3) Conduct of a POBAR's investigation including interrogating the officer and witnesses [SOD, page 13; P's&G's, pages 3-4]
(4) Preparation and review of the complaint or adverse comments for the officer's review and signature; [P's&G's, pages 5-7]
(5) Review of the officer's response, including time spent in meeting and conferring with supervisor, command staff, human resource staff or counsel [P's&G's, pages 3-4].

No. of cases sent	38
No. of cases returned	18
No. Units' cases sent	17
No. of Units' cases returned	9

Cases were sent to Court Services, San Dimas Station, Transit Services Bureau, Family Crimes Bureau

POBOR's Time- Study Table 2

Activities	Cases Number (1)																			SCO Allowed
	Advocacy Unit	Palmdale Stn	Pico Rivera Stn	Mira Loma Det Ctr	Pitchess Det Ctr No.	Pico Rivera Stn	Court Serv. West	San Dimas Stn	San Dimas Stn	Pico Rivera Stn	Lakewood Stn	Lakewood Stn	Lakewood Stn	Safe Street Bu	Court Services West	Lakewood Stn	Norwalk Stn	Lancaster Stn		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Totals	
Review of the case (2)	30	60	91			75	150	120		285		60	110	60	245	180	150	60	1,676	1,676 minutes
Conduct a case investigation (3)	90	735	428			365	490	1820		140		435	160	197	445	960	254	145	6,664	
Review of the complaint or adverse comment (4)	120	240	80			180	240	1500		180		30	60	100	240	210	50	120	3,350	3,350 minutes
Totals	240	1,035	599	0	0	620	880	3,440	0	605	0	525	330	357	930	1,350	454	325	11,690	5,026 minutes

Total Number of Minutes [5]	5,026
Number of Cases	14
Average Number of Min.	359
Avg. No. of Hours per Case	6

Average for 14 cases	359 minutes
Hours per case	**5.98** hours

Footnotes:

(1) For non-motor vehicle cases, the number of minutes recorded on the POBAR's Log to perform each of three types of reimbursable activities are indicated above.
(2) Review of the circumstances or documentation which led to initiating the POBAR's case [P's&G's, pages 3-4, 6-7].
(3) Conduct of a POBAR's investigation including interrogating the officer and witnesses [SOD, page 13; P's&G's, pages 3-4]
(4) Preparation and review of the complaint or adverse comments for the officer's review and signature; [P's&G's, pages 5-7]
(5) In order to compute SCO allowed time per case, investigation time was not included.

POBOR's Time- Study Table 3

Activities	Cases Number (1)																			SCO Allowed
	Advocacy Unit	Palmdale Stn	Pico Rivera Stn	Mira Loma Det Ctr	Pitchess Det Ctr No.	Pico Rivera Stn	Court Serv. West	San Dimas Stn	San Dimas Stn	Pico Rivera Stn	Lakewood Stn	Lakewood Stn	Lakewood Stn	Safe Street Bu	Court Services West	Lakewood Stn	Norwalk Stn	Lancaster Stn		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Totals	
Review of the case (2)	30	60	91			75	150	120		285		60	110	60	245	180	150	60	1,676	1,676 minutes
Conduct a case investigation (3)	90	735	428			365	490	1820		140		435	160	197	445	960	254	145	6,664	6,664 minutes
Review of the complaint or adverse comment (4)	120	240	80			180	240	1500		180		30	60	100	240	210	50	120	3,350	3,350 minutes
Totals	240	1,035	599	0	0	620	880	3,440	0	605	0	525	330	357	930	1,350	454	325	11,690	11,690 minutes

Total Number of Minutes	11,690
Number of Cases	14
Average Number of Min.	835
Avg. No. of Hours per Case	**14**

Average for 14 cases	835 minutes
Hours per case	**13.92** hours

Footnotes:

(1) For non-motor vehicle cases, the number of minutes recorded on the POBAR's Log to perform each of three types of reimbursable activities are indicated above.
(2) Review of the circumstances or documentation which led to initiating the POBAR's case [P's&G's, pages 3-4, 6-7].
(3) Conduct of a POBAR's investigation including interrogating the officer and witnesses [SOD, page 13; P's&G's, pages 3-4]
(4) Preparation and review of the complaint or adverse comments for the officer's review and signature; [P's&G's, pages 5-7]

Table 4
POBOR - SCO ALLOWED CORRECTIONS [5]
UNIT LEVEL - INTERROGATIONS

FISCAL YEAR	[1] NO. OF CASES W/OUT OPER VEH	[3] HRLY RATE	[2] ELIG. HRS.	SALARIES	BENEFIT RATES	BENEFITS COST	[4] INDIRECT RATES	INDIRECT COST	TOTAL
2002-03	558	$54.20	6	$181,358	37.764%	$68,488	44.129%	$80,032	$329,878
2001-02	749	$47.48	6	$213,381	35.141%	$74,984	39.789%	$84,902	$373,268
2000-01	768	$46.20	6	$213,019	37.149%	$79,134	33.426%	$71,204	$363,357
1999-00	597	$46.28	6	$165,872	32.022%	$53,116	41.546%	$68,913	$287,901
1998-99	571	$44.62	6	$152,843	13.763%	$21,036	37.114%	$56,726	$230,605
1997-98	634	$41.78	6	$158,908	12.837%	$20,399	21.652%	$34,407	$213,714
1996-97	624	$40.41	6	$151,245	13.125%	$19,851	35.678%	$53,961	$225,058
1995-96	704	$40.16	6	$169,614	37.952%	$64,372	69.474%	$117,838	$351,823
1994-95	702	$40.16	6	$169,239	36.026%	$60,970	49.271%	$83,386	$313,595
	5907								**$2,689,198**

[1] No. of cases without Operations of Vehicles per SCO Findings.
[2] Eligible hours from Time Study done at Unit level without Oper. Of Vehicles.
[3] Hourly rates from Los Angeles County claims.
[4] Indirect Rates - ICP approved by Auditor-Controller, Average of different Division.
[5] Does not include the time necessary to investigate and prepare for the interrogation.

Table 5
POBOR - SCO ALLOWED CORRECTIONS [5]
UNIT LEVEL - INTERROGATIONS

FISCAL YEAR	[1] NO. OF CASES W/OUT OPER VEH	[3] HRLY RATE	[2] ELIG. HRS.	SALARIES	BENEFIT RATES	BENEFITS COST	[4] INDIRECT RATES	INDIRECT COST	TOTAL
2002-03	558	$54.20	14	$423,170	37.764%	$159,806	44.129%	$186,740	$769,716
2001-02	749	$47.48	14	$497,890	35.141%	$174,963	39.789%	$198,105	$870,958
2000-01	768	$46.20	14	$497,044	37.149%	$184,647	33.426%	$166,142	$847,833
1999-00	597	$46.28	14	$387,035	32.022%	$123,936	41.546%	$160,798	$671,769
1998-99	571	$44.62	14	$356,633	13.763%	$49,083	37.114%	$132,361	$538,077
1997-98	634	$41.78	14	$370,785	12.837%	$47,598	21.652%	$80,282	$498,665
1996-97	624	$40.41	14	$352,906	13.125%	$46,319	35.678%	$125,910	$525,135
1995-96	704	$40.16	14	$395,766	37.952%	$150,201	69.474%	$274,954	$820,921
1994-95	702	$40.16	14	$394,891	36.026%	$142,263	49.271%	$194,567	$731,722
	5907								**$6,274,796**

[1] No. of cases without Operations of Vehicles per SCO Findings.
[2] Eligible hours from Time Study done at Unit level without Oper. Of Vehicles.
[3] Hourly rates from Los Angeles County claims.
[4] Indirect Rates - ICP approved by Auditor-Controller, Average of different Division.
[5] Includes the time necessary to investigate and prepare for the interrogation.

POBOR - Table 6
IAB - INTERROGATIONS [4]

FISCAL YEAR	[1] NO. OF CASES	HRLY RATE	[2] ELIG. HRS.	SALARIES	BENEFIT RATES	BENEFITS COST	[3] INDIRECT RATES	INDIRECT COST	TOTAL
2002-03	228	$47.55	6	$65,048	37.764%	$24,565	10.000%	$6,505	$96,118
2001-02	170	$47.48	6	$48,430	35.141%	$17,019	10.000%	$4,843	$70,291
2000-01	156	$46.20	6	$43,243	37.149%	$16,064	10.000%	$4,324	$63,632
1999-00	198	$46.28	6	$54,981	32.022%	$17,606	10.000%	$5,498	$78,085
1998-99	206	$44.62	6	$55,150	13.763%	$7,590	10.000%	$5,515	$68,256
1997-98	265	$41.78	6	$66,430	12.837%	$8,528	10.000%	$6,643	$81,601
1996-97	322	$40.41	6	$78,072	13.125%	$10,247	10.000%	$7,807	$96,126
1995-96	379	$40.16	6	$91,324	37.952%	$34,659	10.000%	$9,132	$135,115
1994-95	289	$40.16	6	$69,637	36.026%	$25,088	10.000%	$6,964	$101,689
	2,213								**$790,913**

[1] Number of cases documented in Los Angeles County's claims.
[2] Conservatively based on the time to complete smaller unit level case, approved by SCO.
[3] Indirect rates set at an SCO-authorized 10% default level.
[4] Does not include the time necessary to to investigate and prepare for the interrogation.

POBOR - Table 7
IAB - INTERROGATIONS [4]

FISCAL YEAR	[1] NO. OF CASES	HRLY RATE	[2] ELIG. HRS.	SALARIES	BENEFIT RATES	BENEFITS COST	[3] INDIRECT RATES	INDIRECT COST	TOTAL
2002-03	228	$47.55	14	$151,780	37.764%	$57,318	10.000%	$15,178	$224,276
2001-02	170	$47.48	14	$113,002	35.141%	$39,710	10.000%	$11,300	$164,013
2000-01	156	$46.20	14	$100,901	37.149%	$37,484	10.000%	$10,090	$148,475
1999-00	198	$46.28	14	$128,288	32.022%	$41,080	10.000%	$12,829	$182,197
1998-99	206	$44.62	14	$128,684	13.763%	$17,711	10.000%	$12,868	$159,263
1997-98	265	$41.78	14	$155,004	12.837%	$19,898	10.000%	$15,500	$190,402
1996-97	322	$40.41	14	$182,168	13.125%	$23,910	10.000%	$18,217	$224,295
1995-96	379	$40.16	14	$213,089	37.952%	$80,872	10.000%	$21,309	$315,269
1994-95	289	$40.16	14	$162,487	36.026%	$58,538	10.000%	$16,249	$237,274
	2,213								**$1,845,464**

[1] Number of cases documented in Los Angeles County's claims.
[2] Conservatively based on the time to complete smaller unit level case.
[3] Indirect rates set at an SCO-authorized 10% default level.
[4] Includes the time necessary to to investigate and prepare for the interrogation.

Table 8
Los Angeles County
Proposed POBOR's Allowable Cost Findings
July 1, 1994 - June 30, 2003

Unit Cases	IAB Cases	Appeal Cases	Transcriptions	Total
$6,274,796	$1,845,464	$353,352	$317,351	$8,790,963

Los Angeles County Sheriff's Department
Peace Officers Procedural Bill of Rights [POBAR]
Unit Level Investigations - Time Study Report

On May 3, 2004, the Los Angeles County Sheriff's Department initiated a five month time study of unit level POBAR's investigations in order to simplify and document State reimbursement claims for the 2002-03 and subsequent fiscal years in accordance with guidance from the State Controller's Office.

This time study report presents the salient features and findings of Los Angeles County's [County's] POBAR's time study in four parts:

I. [Part One]	Reexamination of POBAR's Reimbursement
II. [Part Two]	Clarification of Reimbursable Activities
III. [Part Three]	Time Study Design
IV. [Part Four]	Findings

I. Reexamination of POBAR's Reimbursement

A critical element in the design of the time study was the identification of reimbursable activities to be time studied. This was done after considering and addressing the concerns raised in the Bureau of State Audits' (BSA) POBAR's audit survey.

In response to BSA's findings, Los Angeles County Sheriff and Auditor-Controller staff met and conferred with staff from other jurisdictions and interested organizations who suggested various approaches in simplifying and documenting POBAR's claims as well as providing claimants with reasonable POBAR's reimbursements.

Ia.Comparing Cases

At a southern regional law enforcement conference hosted by the CSAC SB90 Service on March 18, 2004[1], the time it takes to conduct POBAR's cases in different jurisdictions was compared. A standard time of 25 hours per POBAR's case was developed as a rough approximation based on an analysis of 2001-02 claims. When Los Angeles County and staff from Riverside County, San Bernardino County, Los Angeles City Police Department [LAPD], multiplied their number of [2001-02] POBAR's cases by 25 hours and then by their [2001-02] productive hourly rates, the resulting totals were similar to their [2001-02] amounts claimed [for their "adverse comment" and "interrogation" claim components].

In addition, conference participants noted that most POBAR's cases can be processed in less than 25 hours. However, a small percentage of cases require considerably more than 25 hours and are typically handled by 'Internal Affairs' or specialized staff.

Ib. Los Angeles County's Approach

In the case of Los Angeles County [for 2001-02], 85% [963] of our total cases [1,133] took an average of 14 hours and 15% [169] of our cases took an average of 158 hours. All the 1,133 cases took 40,184 hours or an average of 35.5 hours per case.

Therefore, the 25 hour standard time per case, discussed at the CSAC SB90 workshop, is too much time for Los Angeles County's smaller cases and too little time for the bigger cases.

Two different claiming methods provide a more precise approximation of Los Angeles County's POBAR's costs:

1. Small [Unit-level] cases: time study method
2. Large [IAB] cases: actual-cost allocation method

Accordingly, the County has conducted a unit level investigations time study.

[1] The notice and agenda for this conference are found on pages 18-19 of this report.

II. Clarification of Reimbursable Activities

A critical element in the design of the time study was the identification of reimbursable activities to be time studied. This was done after considering and addressing the concerns raised in the Bureau of State Audits' (BSA) POBAR's survey.

IIa. Reimbursable Investgation Activities

Reimbursable POBAR's investigation activities claimed using the time-study methodology are described in the POBAR's 'Statement of Decision' and Parameters and Guidelines, both authoritative documents according to the Bureau of State Audits.

The POBAR's 'Statement of Decision' adopted by the Commission on State Mandates on December 1, 1999, affirms the County's interpretation that POBAR's investigations are reimbursable. In this regard, the 'Statement of Decision' indicates on page 13 that:

> "Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts.
>
> Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code section 17514." [Emphasis added.]

The parameters and guidelines specify, on pages 6-7, that reimbursable activities also include:

> "...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 of rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing."

The parameters and guidelines further specify, on pages 5-6, that reimbursable activities include:

> "(a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment then counties are entitled to reimbursement for:
>
> - Obtaining the signature of the peace officer on the adverse comment; or
>
> - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
>
> (b) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
>
> 1. Providing notice of the adverse comment;
>
> 2. Providing a opportunity to review and sign the adverse comment;
>
> 3. Providing an opportunity to respond to the adverse comment within 30 days;
>
> 4. Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

> (c) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
>
> 1. Providing notice of the adverse comment; and
>
> 2. Obtaining the signature of the peace officer on the adverse comment; or
>
> 3. Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances."

Accordingly, reimbursable investigation activities included in the County's POBAR's time study are based on Cmmission's POBAR's Ps&Gs and Statement of Decision.

IIb. Scope of Investigative Activities

The scope of reimbursable POBAR's investigative activities for the present time study is further described as "prompt, thorough, and fair investigations".

As noted by the Commission on State Mandates, on page 16 of their POBAR's Statement of Decision, the California Supreme Court in *Pasadena Police Officers Association v. City of Pasadena* [[1990) 52 Cal.3d 564], supports Commission's finding that POBAR's imposed new and reimbursable duties, not required under prior law. With regard to POBAR's investigations, the Court stated:

> "To keep the peace and enforce the law, a police department needs the confidence and cooperation of the community it serves. Even if not criminal in nature, acts of a police officer that tend to impair the public's trust in its police department can be harmful to the department's efficiency and morale. Thus, when allegations of officer misconduct are raised, it is essential that the department conduct a prompt, thorough, and fair investigation.

> Nothing can more swiftly destroy the community's confidence in its police force than its perception that concerns raised about an officer's honesty or integrity will go unheeded or will lead only to a superficial investigation." [Emphasis added.]

Also, the parameters and guidelines specify, on pages 3-4, reimbursable activities to be claimed occur:

> " When a peace officer is under investigation, or becomes a witness to an incident under investigation, and subject to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.
>
> - When required by the seriousness of the investigation compensating the peace officer for interrogations occurring during off-duty time in accordance with the department procedures. (Gov. Code Sec. 3303 (a).)
>
> - Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. (Gov. Code Sec. 3303(b).)
>
> - Review of the agency complaints or other documents to prepare the notice of interrogation; determination of the investigating officers; redaction of the agency complaint for names of the complaint of other accused parties or witness or confidential information; preparation of notice or agency complaint; review by counsel; and preparation of notice or agency complaint to peace officer.
>
> - Tape recording the interrogation when the peace officer employee records the interrogation. (Gov. Code Sec. 3303(g).) Including the cost of tape and storage, and the cost of transcription.

- Providing the peace officer employee with access to the tape prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the fallowing categories (Gov. Code Sec. 3303(g).);

    - The further proceeding is not a disciplinary action

    - The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at will employee whose liberty interest is not affected (i.e. the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);

    - The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;

    - The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than the merit;

    - The further proceeding is an action against probationary or at-will employee that result in disadvantage, harm, loss or hardship and impacts the career of the employee."

Accordingly, reimbursable activities included in the County's POBAR's time study are based on Commission's POBAR's Ps&Gs and Statement of Decision.

IIIc. No Investigation Time Limits

It should be noted that neither the POBAR's Statement of Decsision nor the POBAR's Ps&Gs provide any express or implied limitation as to the amount of time that may be devoted to an investigation. Even so, the County's investigation time per unit level case, discussed in Part Four herein, is small and reasonable.

IId. Scope of Time Study

The scope of the County's POBAR's time study of investigation time is limited in the sense that only some of the reimbursable activities found in the Commission on State Mandates [Commission] Ps&Gs or Statement of Decision [SOD] were measured.

The time study was limited to three types of reimbursable activities which pertain to unit level POBAR's investigations. These three types of activities, along with references to authorizing portions of the Ps&Gs or SOD, are:

> [1] Review of the circumstances or documentation which led to initiating the POBAR's case [Ps&Gs, pages 3-4, 6-7].
>
> [2] Conduct of a POBAR's investigation including interrogating the officer and witnesses [SOD, page 13; Ps&Gs, pages 3-4]
>
> [3] Preparation and review of the complaint or adverse comment for the officer's review and signature; [Ps&Gs, pages 5-7]

Therefore, the County's POBAR's Unit Level time study closely adhered to the description of reimbursable activities found in Commission's Ps&Gs and SOD.

III. Time Study Design

A new POBAR's time study was completed which complies with SCO guidance and BSA standards as expressed on page 42 of BSA's Report 2003-106:

> "Key elements of an adequate time study include having employees who are conducting the reimbursable activities track the actual time they spend when they are conducting each activity, recording the activities over a reasonable period of time, maintaining documentation that reflects the results, and periodically considering whether the results continue to be representative of current processes."

In the case of the County's POBAR's time study, Sheriff department personnel were provided with time study logs and detailed instruction on completing the

logs. Each time study participant tracked and recorded the actual time they spent on each POBAR's activity. The time study logs and related documentation that reflects the time study results are maintained by the County and are available for authorized examination only at the County's place of business due to their confidential nature.

The County POBAR's time study period started in May of 2004 and ended in October of 2004. According to SCO's current guidance, the County's time study may be used in preparing POBAR's claims for the 2004-05 and prior years through 2001-02. As required by BSA[2], the County will consider whether the results continue to be representative of current processes when preparing POBAR's claims for the 2005-06 and subsequent fiscal years.

Specifically, the County's POBAR's time study is designed to measure the amount of time spent on reimbursable POBAR's activities at the Unit level during each of five months beginning May 3, 2004. Time was measured to the minute and recorded contemporaneously on a POBAR case log form[3].

A sample of 44 POBAR's unit level cases was selected and represented all POBAR's Unit Level cases initiated during May, 2004 throughout the Sheriff's Department, according to records maintained by the Sheriff's Internal Affairs Bureau. The sample size of 44 cases represents approximately 5% of the average [890] POBAR's unit level cases filed a year for the past five years.

For each sampled POBAR's case, Sheriff's case staff were instructed to record time spent on performing the following reimbursable activities:

> [1] Review of the circumstances or documentation which led to initiating the POBAR's case [Ps&Gs, pages 3-4, 6-7].
>
> [2] Conduct of a POBAR's investigation including interrogating the officer and witnesses [SOD, page 13; Ps&Gs, pages 3-4]
>
> [3] Preparation and review of the complaint or adverse comment for the officer's review and signature; [Ps&Gs, pages 5-7]

---

[2] Also see County's Response to the State Auditor Report, included herein on pages 20-23.
[3] Blank POBAR's case log form are included herein on pages 14-17.

Sheriff POBAR's case staff were asked to sign and return the log to Sheriff's Internal Affairs Bureau after the last entry[4].

IIIb. Scoring

Completed time logs were scored by Operations Lieutenant Ricky D. Jennings of the Los Angeles County Sheriff's Internal Affairs Bureau IAB] to ensure that activity descriptions on the log were appropriately categorized.

Each POBAR's log was evaluated by Lieutenant Jennings to ensure that the proper activities were time studied. Completed time logs for the County's POBAR's Unit Level time study are available for inspection by State audit staff at County Sheriff's Internal Affairs Bureau at 4900 South Eastern Avenue, Suite 100, Commerce, California 90040.

IV. Findings

As indicated on Table 1, on page 11, the County's unit-level POBAR's cases require the performance of 12 hours of reimbursable activities.

Table II, on page 12, depicts the worksite [unit-level] location for each time study respondent.

Table III, on page 13, presents the total distribution of unit-level cases for the 2002-03 fiscal year by rank of the POBAR's investigator.

POBAR's Time Study Table I

Activities	Cases Number (1)																		
	Advocacy Unit	Palmdale Stn	Pico Rivera Stn	Mira Loma Det Ctr	Pitchess Det Ctr No.	Pico Rivera Stn	Coun Serv. West	San Dimas Stn	San Dimas Stn	Pico Rivera Stn	Lakewood Stn	Lakewood Stn	Lakewood Stn	Sale Street Bu	Coun Services West	Lakewood Stn	Norwalk Stn	Lancaster Stn	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Totals
Review of the case (2)	30	60	91	85	120	75	150	120	80	285	40	60	110	60	245	180	150	60	2,001
Conduct a case investigation (3)	90	735	428		27	365	490	1820	0	140		435	160	197	445	960	254	145	6,691
Review of the complaint or adverse comment (4)	120	240	80	120	60	180	240	1500	160	180	80	30	60	100	240	210	50	120	3,770
Totals	240	1,035	599	205	207	620	880	3,440	240	605	120	525	330	357	930	1,350	454	325	12,462

[5]

Total Number of Minutes	12,462
Number of Cases	18
Average Number of Min.	692
Avg. No. of Hours per Case	12

Footnotes:

(1) For each case number, the number of minutes recorded on the POBAR's Log to perform each of three types of reimbursable activities. , are indicated below.
(2) Review of the circumstances or documentation which led to initiating the POBAR's case [P's&G's, pages 3-4, 6-7].
(3) Conduct of a POBAR's investigation including interrogating the officer and witnesses [SOD, page 13; P's&G's, pages 3-4]
(4) Preparation and review of the complaint or adverse comments for the officer's review and signature; [P's&G's, pages 5-7]
(5) The lowest number of hours is 57.3 hour for case #8 or 3,440 minutes/60=57.3 hours

POBAR's Time- Study Table II (1)

Locations	Cases Number (1)																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Advocacy Unit	*																	
Palmdale		*																
Mira Loma Det. Center				*														
Pico Rivera			*			*				*								
Pitchess Detention Center					*													
Court Service West							*								*			
San Dimas								*	*									
Lakewood											*	*	*			*		
Safe Street Bureau														*				
Norwalk																	*	
Lancaster																		*

Footnotes:

(1) This table shows the work site for each respondent.

COUNTY OF LOS ANGELES - SHERIFF'S
PEACE OFFICERS BILL OF RIGHTS - SB90
UNIT LEVEL INVESTIGATIONS BY INVESTIGATORS
FISCAL YEAR 2003-04

POSITIONS		NO. OF CASES [1]
COMMANDER		1
CAPTAIN		2
LIEUTENANT		496
SERGEANT		177
DEPUTY		3
TOTAL CASES		679
CASES COMPLETED IN FY 2003-04	[2]	616
CASES STILL OPEN AS OF 6/30/04	[3]	63
TOTAL CASES		679

[1] The number of cases for each listed position is from the list on Tab E, pages 1 - 45. For example, see page 1 Tab E for 2 Captain cases.

[2] 616 completed cases was computed by counting the the number of sworn cases marked closed on or before 6/30/04 as found on pages 1 - 45, Tab E.

[3] 63 open cases on 7/1/04 was computed by counting the cases either not marked close or closed after 6/30/04 as found on pages 1 - 45, Tab E.

INVESTIGATOR'S LOG
DO NOT COPY

FILE NUMBER:	
INVESTIGATOR:	
DATE DEPARTMENT BECAME AWARE OF ALLEGATIONS:	
DATE INVESTIGATION INITIATED:	
DATE TO DIVISION:	
DATE RETURNED TO IAB:	
INVESTIGATORS TIME (TOTAL FROM "TOTAL TIME" COLUMN):	

CASE SUMMARY:

DATE	TOTAL MINUTES	ACTIVITY	NAME
START TIME	END TIME		
START TIME	END TIME		
START TIME	END TIME		
START TIME	END TIME		
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California State Association of Counties
League of California Cities

Advisory Committee on State Mandates

March 4, 2004

TO: Members, California State Association of Counties-League of California Cities Advisory Committee on State Mandates

FROM: Leonard Kaye, County Co-Chair & Glen Everroad, City Co-Chair
Allan Burdick, Pam Stone, & Juliana Gmur, Committee Staff

RE: Special Workshop on the Peace Officers Bill of Rights

The City-County Advisory Committee on State Mandates has schedule a Special POBR Mandate Workshop in conjunction with the local law enforcement labor groups, led by the Peace Officers Research Association of California. The workshop is intended as the first step in resolving the current issue that exists between the local agencies and various State agencies over what POBR activites and costs are reimbursable in the SB 90 or state mandated cost program. The details of the workshop are as follows:

THURSDAY, MARCH 18, 2004
10:00 a.m. to 3:00 p.m.
Ontario Airport Hilton Hotel, Parlor C
700 No. Haven Avenue
Ontario, CA 91764
(909) 980-0400

Registration Fee: $30
The workshop will include coffee and beverages upon arrival and lunch. The registration fee is intended to partially offset the actual cost of the workshop. The fee is payable at the meeting or individuals can be billed and pay at a later date. The lunch will be a working lunch in order to complete the work on or before the scheduled deadline for adjournment.

A copy of the workshop agenda is enclosed. If you have any questions, call Allan at (916) 485-8102; Pam Stone at (559) 779-7109 or Juliana Gmur at (559) 960-4507.

California State Association of Counties
League of California Cities

Advisory Committee On State Mandates
Special Law Enforcement Group Workshop

THURSDAY, March 18, 2004
10:00 a.m. to 3:00 p.m.
Ontario Airport Hilton Hotel, Parlor C
700 No. Haven Avenue
Ontario, CA 91764

Presiding:
Presiding Officials: Leonard Kaye, County of Los Angeles
Randy Perry, Peace Officers Research Association of California

AGENDA

1. **CALL TO ORDER AND SELF INTRODUCTIONS**
The presiding officials will call the meeting to order and preside over self-introductions of all in attendance.

2. **BACKGROUND AND GROUP OF THE GROUP OBJECTIVE**
The presiding officers and staff to the CSAC-LCC Advisory Committee on State Mandates will provide a brief overview of the workshop objective and the background.

3. **DISCUSSION OF THE BEST METHOD TO DOCUMENT THE MANDATE**
The purpose of this item is to agree on the preferred method to document the differences or additional requirements of the Peace Officers Procedural Bill of Rights and those activities that are required by the "due process" requirements of the U.S. and California Constitutions.

4. **IDENIFY THE POBR MANDATED REQUIREMENTS**
The presiding officers and staff will facilitate the agreed upon process to identify the major differences that are mandated by the POBR and are not part of the Constitutional "Skelly" requirements.

5. **DISCUSS THE NEXT STEPS IN THE PROCESS AND SCHEDULE**
The Group will identify the remaining steps to be completed, clarify any assignments that are given to those in attendance.

6. **OTHER BUSINES AND ADJOURNMENT**
The presiding officers will facilitate any further discussion that is need to accomplish the Group's objective.

Los Angeles County
Response to State Auditor Report 2003-106
Peace Officers Procedural Bill of Rights [POBAR]

The County of Los Angeles [County] has now implemented many of the recommendations for improving the POBAR's claiming process, detailed in the Bureau of State Audits [BSA] Report 2003-106, issued in October of 2003.

However, regarding the scope of reimbursable services, the County continues to disagree with BSA's finding that the cost of conducting prompt, thorough and fair POBAR's investigations is not reimbursable.

Regarding BSA's recommendation that POBAR's claims for the 2001-02 fiscal year be revised, as noted on page 5 of BSA's Report 2004-406, issued in January of 2004, the County cannot comply at this time as the time period for amending these claims has expired. Further, the State Controller's Office [SCO] notes on page 73 of BSA's Report 2003-106 that "... SCO will seek appropriate direction [from the Commission on State Mandates] relating to retroactive application of the change in reimbursable activities for previously filed claims and authorization for claims to be re-filed with the SCO".

Time Study

A new POBAR's time study was completed which complies with SCO guidance and BSA standards as expressed on page 42 of BSA's Report 2003-106:

> "Key elements of an adequate time study include having employees who are conducting the reimbursable activities track the actual time they spend when they are conducting each activity, recording the activities over a reasonable period of time, maintaining documentation that reflects the results, and periodically considering whether the results continue to be representative of current processes."

In the case of the County's POBAR's time study, Sheriff department personnel were provided with time study logs and detailed instruction on completing the logs. Each time study participant tracked and recorded the actual time they spent on each POBAR's activity. The time study logs and related documentation that reflects the time study results are maintained by the County and are available for authorized examination only at the County's place of business due to their confidential nature.

The County POBAR's time study period started in May of 2004 and ended in October of 2004. According to SCO's current guidance, the County's time study may be used in preparing POBAR's claims for the 2004-05 and prior years through 2001-02. As required by BSA, the County will consider whether the results continue to be representative of current processes when preparing POBAR's claims for the 2005-06 and subsequent fiscal years.

Administrative Appeals

The County has now complied with BSA's reimbursement criteria for allowable POBAR's administrative appeal costs in preparing POBAR's claims. Specifically, administrative appeals cases were evaluated by Sheriff's legal staff to determine if the case met the reimbursement criteria detailed on page 37 of BSA's Report 2003-106. Significant reductions in the number of administrative cases which qualified for reimbursement were then made and appropriately reflected in the POBAR's claim.

Investigations

We continue to maintain that implementation of the POBAR's program requires the County to conduct prompt, thorough, and fair investigations and that such investigative costs are reimbursable.

We continue to find that the requirement to conduct "prompt, thorough, and fair investigations" is in the POBAR's Statement of Decision [SOD] issued by the Commission on State Mandates [Commission]. In this regard, the SOD plainly states, on page 13, that:

> "Conducting the investigation when the peace officer is on duty, and compensating the peace

> officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts.
>
> Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes "costs mandated by the state" under Government Code section 17514." [Emphasis added.]

In addition, Section IV. C. of the POBAR's Parameters and Guidelines [Ps&Gs] currently details reimbursable activities for "interrogations" to include:

> "... reimbursement for the performance of ... [investigations] ... only when a peace officer is under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for the purpose of punishment." [Emphasis added.]

Further, Section IV. C.1. of the POBAR's Ps&Gs also provides for reimbursement of "off-duty compensation" "... when required by the seriousness of the investigation" [emphasis added].

Also, claiming POBAR's investigative costs is not prohibited in Commission's SOD or Ps&Gs.

Moreover, Commission's SOD and Ps&Gs still provide no reimbursement limitations on claimants' costs in conducting a prompt, thorough, and fair investigation.

Next Steps

As suggested throughout BSA's Report 2003-106, an important next step is the need to clarify the scope of reimbursable services. We plan on being actively involved in this process.

Finally, we plan on conferring with SCO regarding acceptable steps we may take in simplifying our POBAR's claiming process.

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