

CITY OF INGLEWOOD

Audit Report

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178,
Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980;
Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983;
Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990

July 1, 2002, through June 30, 2005



JOHN CHIANG
California State Controller

August 2007



JOHN CHIANG
California State Controller

August 29, 2007

Gerry Givens
Acting City Administrator
City of Inglewood
One Manchester Boulevard
Inglewood, CA 90301

Dear Mr. Givens:

The State Controller's Office audited the costs claimed by the City of Inglewood for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976, Chapters 775, 1173, 1174, and 1178, Statutes of 1978, Chapter 405, Statutes of 1979, Chapter 1367, Statutes of 1980, Chapter 994, Statutes of 1982, Chapter 964, Statutes of 1983, Chapter 1165, Statutes of 1989, and Chapter 675, Statutes of 1990) for the period of July 1, 2002, through June 30, 2005.

The city claimed \$838,740 for the mandated program. Our audit disclosed that the entire amount is unallowable because the city claimed activities that were not eligible for reimbursement. The State paid the city \$14, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

Claimed activities include the reimbursable cost of a peace officer who is under investigation or who becomes a witness to an incident under investigation during off-duty time. The city did not separately measure the cost related to this activity. We will allow this cost if the city provides documentation supporting the time spent.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at CSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/jj

cc: Sidney Porter, CPA
Finance Manager
City of Inglewood
Lieutenant Mark Fronterotta
Police Department
City of Inglewood
Todd Jerue, Program Budget Manager
Corrections and General Government
Department of Finance
Carla Castaneda
Principal Program Budget Analyst
Department of Finance
Paula Higashi, Executive Director
Commission on State Mandates

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Inglewood for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 2002, through June 30, 2005. The last day of fieldwork was February 15, 2007.

The city claimed \$838,740 for the mandated program. Our audit disclosed that the entire amount is unallowable, primarily because the city claimed activities that were not eligible for reimbursement. The State paid the city \$14, which the State will offset from other mandated program payments due the city. Alternatively, the city may remit this amount to the State.

Background

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990, added and amended Government Code sections 3300 through 3310. This legislation, known as the Peace Officers Procedural Bill of Rights (POBOR), was enacted to ensure stable employer-employee relations and effective law enforcement services.

This legislation provides procedural protections to peace officers employed by local agencies and school districts when a peace officer is subject to an interrogation by the employer, is facing punitive action, or receives an adverse comment in his or her personnel file. The protections required apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission on State Mandates (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the Statement of Decision. The CSM determined that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the California Constitution, Article XII B, Section 6, and Government Code section 17514. The CSM further determined that activities covered by due process are not reimbursable.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. The CSM adopted the *Parameters and Guidelines* on July 27, 2000, and corrected it on August 17, 2000. *Parameters and Guidelines* categorized reimbursable activities into the four following components: Administrative Activities, Administrative

Appeal, Interrogation, and Adverse Comment. In compliance with Government Code section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Peace Officers Procedural Bill of Rights Program for the period of July 1, 2002, through June 30, 2005.

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

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

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

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 Finding and Recommendation section of this report.

For the audit period, the City of Inglewood claimed and was paid \$14 for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that the entire amount is unallowable. The State paid the city \$14, which the State will offset from other mandated program payments due to the city. Alternatively, the city may remit this amount to the State.

Claimed activities include the reimbursable cost of a peace officer who is under investigation or who becomes a witness to an incident under investigation during off-duty time. The city did not separately measure the cost related to this activity. We will allow this cost if the city provides documentation supporting the time spent.

Views of Responsible Official

We issued a draft audit report on May 31, 2007. Sidney Porter, Finance Director, responded by letter dated July 16, 2007 (Attachment), disagreeing with the audit results. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Inglewood, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

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

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment ¹</u>
<u>July 1, 2002, through June 30, 2003</u>			
Salaries	\$ 149,636	\$ —	\$ (149,636)
Benefits	61,501	—	(61,501)
Total direct costs	211,137	—	(211,137)
Indirect costs	22,592	—	(22,592)
Total program costs	<u>\$ 233,729</u>	—	<u>\$ (233,729)</u>
Less amount paid by the State		(14)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (14)</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Salaries	\$ 138,394	\$ —	\$ (138,394)
Benefits	62,001	—	(62,001)
Services and supplies	35,518	—	(35,518)
Total direct costs	235,913	—	(235,913)
Indirect costs	30,308	—	(30,308)
Total program costs	<u>\$ 266,221</u>	—	<u>\$ (266,221)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 2004, through June 30, 2005</u>			
Salaries	\$ 151,241	\$ —	\$ (151,241)
Benefits	101,634	—	(101,634)
Services and supplies	39,938	—	(39,938)
Total direct costs	292,813	—	(292,813)
Indirect costs	45,977	—	(45,977)
Total program costs	<u>\$ 338,790</u>	—	<u>\$ (338,790)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>Summary: July 1, 2002, through June 30, 2005</u>			
Salaries	\$ 439,271	\$ —	\$ (439,271)
Benefits	225,136	—	(225,136)
Services and supplies	75,456	—	(75,456)
Total direct costs	739,863	—	(739,863)
Indirect costs	98,877	—	(98,877)
Total program costs	<u>\$ 838,740</u>	—	<u>\$ (838,740)</u>
Less amount paid by the State		(14)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (14)</u>	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>Recap by Cost Component</u>			
Interrogation	\$ 113,897	\$ —	\$ (113,897)
Adverse Comment	724,843	—	(724,843)
Total program costs	<u>\$ 838,740</u>	<u>\$ —</u>	<u>\$ (838,740)</u>

¹ See the Finding and Recommendation section.

Finding and Recommendation

**FINDING—
Unallowable costs
claimed**

The city claimed \$838,740 in costs (\$664,407 in salary and benefit costs, \$75,456 in services and supplies costs, and \$98,877 in related indirect costs) for the audit period. Services and supplies relate to contracted city attorney costs. The entire amount is unallowable primarily because the activities claimed were not identified in the *Parameters and Guidelines* as reimbursable costs.

The following table shows the unallowable costs by cost element and reimbursable component.

	Fiscal Year			Total
	2002-03	2003-04	2004-05	
By cost element:				
Salaries	\$ (149,636)	\$ (138,394)	\$ (151,394)	\$ (439,271)
Benefits	(61,501)	(62,001)	(101,634)	(225,136)
Services and supplies	—	(35,518)	(39,938)	(75,456)
Indirect costs	(22,592)	(30,308)	(45,977)	(98,877)
Audit adjustment	<u>\$ (233,729)</u>	<u>\$ (226,221)</u>	<u>\$ (338,790)</u>	<u>\$ (838,740)</u>
By reimbursable component:				
Interrogations	\$ (29,597)	\$ (32,702)	\$ (36,795)	\$ (99,094)
Adverse comment	(181,540)	(203,211)	(256,018)	(640,769)
Subtotal	(211,137)	(235,913)	(292,813)	(739,863)
Indirect costs	(22,592)	(30,308)	(45,977)	(98,877)
Audit adjustment	<u>\$ (233,729)</u>	<u>\$ (266,221)</u>	<u>\$ (338,790)</u>	<u>\$ (838,740)</u>

Interrogation

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

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

When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.

In reference to compensation and timing of the interrogation pursuant to Government Code section 3303, subdivision (a), the Commission on State Mandates Final Staff Analysis to the adopted *Parameters and Guidelines* states:

It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses, as implied by the claimant’s proposed language. Certainly, local agencies were performing these investigative activities before POBAR [sic] was enacted.

Parameters and Guidelines, Section IV(C), also states that tape recording the interrogation (cost of media and storage, and the cost of transcription), when the peace officer employee records the interrogation is reimbursable. It also states that the producing of transcribed copies of any notes made by a stenographer at an interrogation under specified circumstances is reimbursable.

The city developed a case time log for each of the five groups below and estimated the following hours based on input by a police officer.

	<u>Interrogation Hours</u>	<u>Tape Review Hours</u>	<u>Total Hours</u>
Small cases:			
Police Officer	0.5	—	0.5
Medium cases:			
Sergeant	1	—	1
Police Officer	1	—	1
Large cases:			
Sergeant	4	4	8
Police Officer	4	—	4
Extra large cases:			
Sergeant	5	5	10
Police Officer	5	—	5
Officer-involved shooting cases:			
Sergeant	4	4	8
Police Officer	4	—	4
Total	<u>28.5</u>	<u>13</u>	<u>41.5</u>

The city multiplied the estimated hours by the number of annual cases investigated for each of the five groups at the applicable productive hourly rate to derive claimed costs for FY 2003-04 and FY 2004-05. For FY 2002-03, the city omitted the police officers’ time, claimed one fewer hour for extra large cases, and claimed an additional four hours for a pre-interrogation meeting related to officer-involved shooting cases. In addition, for FY 2002-03, the city allocated the above sergeant hours to watch commander, division commander, bureau commander, captain, and sergeant hours. The variation in hours claimed for FY 2002-03 did not agree with the case time logs. In addition, the city did not support the estimated hours.

Interrogation hours relates to the city’s interview of a peace officer who is under investigation as well as the time spent by the peace officer who is under investigation or who becomes a witness to an incident under

investigation. The only reimbursable costs are city incurred overtime compensation for the accused peace officer and any peace officer witnesses as a result of their attendance at interrogations during their off-duty time. The city stated that interrogations are almost always conducted during officers’ normal working hours. The city did not measure reimbursable interrogations during peace officers’ off-duty time and further stated that it was not cost effective to measure this amount.

Tape review hours relate to the review and correction of transcribed interrogation tapes. This activity, as well as pre-interrogation meetings, is not reimbursable under the mandate.

Adverse Comment

Depending on the circumstances surrounding an Adverse Comment, *Parameters and Guidelines* allows some or all of the following four activities upon receipt of an Adverse Comment: providing notice of the adverse comment, providing an opportunity to review and sign the adverse comment, providing an opportunity to respond to the adverse comment within 30 days, and noting on the document the peace officer’s refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

Parameters and Guidelines further allows the review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel to determine whether the comment constitutes a written reprimand or an adverse comment. Local agencies investigation of an allegation and review of the responses given by the officers and/or witnesses are not reimbursable.

The city also developed a case time log for each of the five groups below and estimated the following hours based on input by a police officer.

	Case Summary & Internal Affairs Review Hours	Command Staff Review & Findings Hours	Proposed Disci- plinary Hours	Final Disci- plinary Hours	Total Hours
Small cases:					
Sergeant	1.5	—	—	—	1.5
Captain	—	2	0.5	—	2.5
Chief	—	—	0.5	—	0.5
Medium cases:					
Sergeant	4	—	0.5	0.5	5
Division Command	2	—	—	—	2
Captain	—	1	0.5	0.5	2
Chief	—	—	0.5	0.5	1
Large cases:					
Sergeant	10	—	2	2	14
Division Command	6	—	—	—	6
Captain	—	4	2	2	8
Chief	—	2	1	1	4
City Attorney	—	—	4	4	8

	Case Summary & Internal Affairs Review Hours	Command Staff Review & Findings Hours	Proposed Disci- plinary Hours	Final Disci- plinary Hours	Total Hours
Extra large cases:					
Sergeant	20	—	4	4	28
Division Command	6	4	2	2	14
Captain	—	4	2	2	8
Chief	—	2	1	1	4
City Attorney	—	—	4	4	8
Arbitrator	—	8	8	—	16
Officers-involved shooting cases:					
Division Command	2	—	2	4	8
Bureau Command	8	8	2	4	22
Chief	8	—	2	4	14
City Attorney	8	—	4	8	20
Civil Attorney	8	—	4	—	12
Total	83.5	35.0	46.5	43.5	208.5

The city multiplied the estimated hours by the number of annual cases investigated for each of the five groups at the applicable productive hourly rate to derive claimed costs for FY 2003-04 and FY 2004-05. For FY 2002-03, the city claimed 24 fewer hours for officer-involved shooting cases. The variation in hours claimed for FY 2002-03 did not agree with the case time logs. In addition, the city did not support the estimated hours.

Command staff review and findings reimbursable are the only activities. However, time spent was estimated. None of the other activities claimed relates to the review of circumstances or documentation leading to the adverse comment or preparing and providing the adverse comment to a police officer.

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

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

Parameters and Guidelines, Section VA1, Salaries and Benefits, requires that the claimants identify the employees and/or show the classification of the employees involved, describe the reimbursable activities performed, and specify the actual time devoted to each reimbursable activity by each employee.

Parameters and Guidelines, Section VA3, Contracted Services, requires that the claimants identify the name of the contractor and services performed to implement the reimbursable activities and to report the number of hours spent on the reimbursable activities (hourly contracts) or the reimbursable services performed (fixed price contract).

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

Recommendation

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

City's Response

The City of Inglewood does not concur with the State Controller's finding. The Inglewood Police Department conducts interrogations with or without concerns for alleged criminal activities, thereby providing procedural protections to peace officers employed by this agency when a peace officer is subject to an interrogation or adverse comment.

A significant portion of the disallowance of costs was a result of the State's re-interpretation of eligible activities. Statewide, there are differences of opinion between local agencies and the SCO over which activities are eligible for reimbursement. The City believes that the State's *Parameters and Guidelines* for claiming have been narrowed beyond the scope of initial draft guidelines and the intent of the legislation. Moreover, the City believes that there is a higher level of service imposed by the mandate and that the resulting costs should be eligible for reimbursement.

The procedural requirements of the mandate have resulted in expanding the time and effort by local law enforcement agencies to ensure their officers are given all of their POBOR rights. It takes considerably more time and effort than allowable under the revised guidelines. The City will continue to partner with other local agencies in working with the State to develop a reasonable reimbursement process or methodology in regard to eligible activities.

SCO's Comment

The finding and recommendation remain unchanged.

The city's claim was based entirely upon estimated costs, and the city provided no corroborating evidence to support its estimates. The city indicates in its response that it disagrees with the SCO interpretation of eligible activities under Parameters and Guidelines. We concur that there have been differences of opinion between our office and local agencies over the eligibility of certain activities for reimbursement. In 2005, Statutes 2005, Chapter 72, section 6 (AB 138), added section 3313 to the Government Code and directed the CSM to review the *Statement of Decision* to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court Decision in San Diego Unified School Dist. V. Commission on State Mandates (2004) 33 Cal.4th 859 and other applicable court decisions.

The CSM reviewed its original findings and adopted a Statement of Decision upon reconsideration on May 1, 2006. Amended *Parameters and Guidelines* were adopted on December 4, 2006, for costs incurred subsequent to July 1, 2006. Except for changes to allowable activities for the cost components of administrative appeal for probationary and at-will peace officers (pursuant to amended Government Code section 3304) and adverse comment (for punitive actions protected by the due process clause), reimbursable activities did not change from the original Parameters and Guideline. However, the statement did provide much greater clarity as to what activities are and are not allowable under the mandated program.

We believe that our audit findings accurately reflect the eligible activities as described in adopted *Parameters and Guidelines*. We concur that the development of a reasonable reimbursement methodology for this mandate is a goal worth pursuing. Accordingly, our office supports a methodology that appropriately reimburses local agencies for the increased costs actually incurred pursuant to the CSM adopted reimbursable activities.

**Attachment—
City's Response to
Draft Audit Report**

Inglewood



California

FINANCE DEPARTMENT

July 16, 2007

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

Subject: Draft Audit Report Response
Peace Officers Procedural Bill of Rights Program

Dear Mr. Spano:

We have examined the draft audit report regarding the claim filed by the City of Inglewood for the legislatively mandated *Peace Officers Procedural Bill of Rights (POBOR) Program* (Chapter 465, Statutes of 1976; Chapter 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 2002 through June 30, 2005. The report contained the following finding:

Finding – Unallowable Costs Claimed: The City claimed \$838,740 (\$664,407 in salary and benefit costs, \$75,456 in services and supplies costs, and \$98,877 in related costs) for the audit period. The entire amount is unallowable primarily because the activities claimed were not identified in the *Parameters and Guidelines* as reimbursable costs.

Recommendation: The State recommends the City establish and implement procedures to ensure that claimed costs include only eligible costs and that claimed costs are based on actual costs that are properly supported.

Our comments on your finding are as follows:

The City of Inglewood does not concur with the State Controller's finding. The Inglewood Police Department conducts interrogations with or without concerns for alleged criminal activities, thereby providing procedural protections to peace officers employed by this agency when a peace officer is subject to an interrogation or adverse comment.

A significant portion of the disallowance of costs was a result of the State's re-interpretation of eligible activities. Statewide, there are differences of opinion between local agencies and the SCO over which activities are eligible for reimbursement. The City believes that the State's *Parameters and Guidelines* for claiming have been narrowed beyond the scope of initial draft guidelines and the intent of the legislation. Moreover, the City believes that there is a higher level of service imposed by the mandate and that the resulting costs should be eligible for reimbursement.

The procedural requirements of the mandate have resulted in expanding the time and effort by local law enforcement agencies to ensure their officers are given all of their POBOR rights. It takes considerably more time and effort than allowable under the revised guidelines. The City will continue to partner with other local agencies in working with the State to develop a reasonable reimbursement process or methodology in regard to eligible activities.

If you have any questions regarding this response, please contact me, at (310) 412-5257 or email me at sporter@cityofinglewood.org.

Sincerely,



Sidney A. Porter
Finance Director

Cc: Jerry Givens, Assistant City Administrator
Jeff Muir, Assistant City Administrator

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>