

# **CITY OF LONG BEACH**

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, 2002*



**STEVE WESTLY**  
California State Controller

December 2004



**STEVE WESTLY**  
California State Controller

December 30, 2004

Mr. Michael A. Killebrew  
Acting Director of Financial Management  
City of Long Beach  
333 West Ocean Boulevard  
Long Beach, CA 90802

Dear Mr. Killebrew:

The State Controller's Office audited the claims filed by the City of Long Beach for costs of 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, 2002.

The city claimed \$13,640,845 (\$13,641,845 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that none of the claimed costs is allowable because the city claimed costs that were not supported. The State paid the city \$419,113, which the city should return.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). 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 COSM's Web site at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link), and obtain IRC forms by telephone at (916) 323-3562 or by e-mail at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

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

Sincerely,

*Original Signed By:*

VINCENT P. BROWN  
Chief Operating Officer

VPB:JVB/jj

cc: (See page 2)

cc: Chief Anthony W. Batts  
Long Beach Police Department  
City of Long Beach  
Scott Robertson, Commander  
Long Beach Police Department  
Internal Affairs Division  
City of Long Beach  
James Tilton, Program Budget Manager  
Corrections and General Government  
Department of Finance

# Contents

## **Audit Report**

<b>Summary</b> .....	1
<b>Background</b> .....	1
<b>Objective, Scope, and Methodology</b> .....	2
<b>Conclusion</b> .....	2
<b>Views of Responsible Official</b> .....	3
<b>Restricted Use</b> .....	3
<b>Schedule 1—Summary of Program Costs</b> .....	4
<b>Finding and Recommendation</b> .....	7
<b>Attachment—City’s Response to Draft Audit Report</b>	

# Audit Report

## Summary

The State Controller's Office (SCO) audited the claims filed by the City of Long Beach for costs of 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, 2002. The last day of fieldwork was November 5, 2004.

The city claimed \$13,640,845 (\$13,641,845 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that none of the claimed costs is allowable because the city claimed costs that were not supported. The State paid the city \$419,113. The city should return the total amount to the State.

## Background

*Government Code* Sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (added and amended by 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) were 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 (COSM) determined that this legislation imposed a state mandate reimbursable under *Government Code* Section 17561.

*Parameters and Guidelines* establishes the state mandate and defines reimbursement criteria. COSM adopted the *Parameters and Guidelines* on July 27, 2000 and corrected it on August 17, 2000. 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, 1994, through June 30, 2002.

Our audit scope included, but was not limited to, determining whether costs claimed were: supported by appropriate source documents, not funded by another source, and 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* Section 17558.5. We did not audit the city's financial statements. Our scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

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

We asked the city's representative to submit a written representation letter regarding the city's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the city declined our request.

## **Conclusion**

The audit disclosed an instance of noncompliance with the requirements outlined above. This instance is 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 Long Beach claimed \$13,640,845 (\$13,641,845 less a \$1,000 penalty for filing a late claim) for Peace Officers Procedural Bill of Rights Program costs. Our audit disclosed that none of the claimed costs are allowable.

For fiscal year (FY) 1994-95 through FY 1999-2000, the city received no payment from the State. Our audit disclosed that none of the costs claimed are allowable.

For FY 2000-01, the State paid the city \$419,113. Our audit disclosed that none of the costs claimed are allowable. The city should return the total amount to the State.

For FY 2001-02, the city received no payment from the State. Our audit disclosed that none of the costs claimed are allowable.

**Views of  
Responsible  
Official**

We issued a draft audit report on October 29, 2004. Chirstina L. Checel, Deputy City Attorney, responded by letter dated December 2, 2004 (Attachment), disagreeing with the audit results. The final audit report includes the city's response.

**Restricted Use**

This report is solely for the information and use of the City of Long Beach, 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, 1994, through June 30, 2002**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments <sup>1</sup></u>
<u>July 1, 1994, through June 30, 1995</u>			
Salaries	\$ 750,909	\$ —	\$ (750,909)
Benefits	410,271	—	(410,271)
Services and supplies	197,364	—	(197,364)
Total direct costs	1,358,544	—	(1,358,544)
Indirect costs	256,810	—	(256,810)
Total costs	<u>\$ 1,615,354</u>	—	<u>\$ (1,615,354)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 1995, through June 30, 1996</u>			
Salaries	\$ 664,181	\$ —	\$ (664,181)
Benefits	399,558	—	(399,558)
Services and supplies	196,204	—	(196,204)
Total direct costs	1,259,943	—	(1,259,943)
Indirect costs	239,105	—	(239,105)
Total costs	<u>\$ 1,449,048</u>	—	<u>\$ (1,499,048)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 1996, through June 30, 1997</u>			
Salaries	\$ 685,352	\$ —	\$ (685,352)
Benefits	344,980	—	(344,980)
Services and supplies	210,572	—	(210,572)
Total direct costs	1,240,904	—	(1,240,904)
Indirect costs	339,934	—	(339,934)
Total costs	<u>\$ 1,580,838</u>	—	<u>\$ (1,580,838)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	



## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments <sup>1</sup>
<u>July 1, 1997, through June 30, 1998</u>			
Salaries	\$ 715,696	\$ —	\$ (715,696)
Benefits	334,230	—	(334,230)
Services and supplies	<u>230,852</u>	<u>—</u>	<u>(230,852)</u>
Total direct costs	1,280,778	—	(1,280,778)
Indirect costs	<u>347,112</u>	<u>—</u>	<u>(347,112)</u>
Total costs	<u>\$ 1,627,890</u>	—	<u>\$(1,627,890)</u>
Less amount paid by the State		<u>—</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 1998, through June 30, 1999</u>			
Salaries	\$ 820,738	\$ —	\$ (820,738)
Benefits	319,076	—	(319,076)
Services and supplies	<u>268,525</u>	<u>—</u>	<u>(268,525)</u>
Total direct costs	1,408,339	—	(1,408,339)
Indirect costs	<u>341,427</u>	<u>—</u>	<u>(341,427)</u>
Total costs	<u>\$ 1,749,766</u>	—	<u>\$(1,749,766)</u>
Less amount paid by the State		<u>—</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>July 1, 1999, through June 30, 2000</u>			
Salaries	\$ 877,865	\$ —	\$ (877,865)
Benefits	308,131	—	(308,131)
Services and supplies	<u>410,102</u>	<u>—</u>	<u>(410,102)</u>
Total direct costs	1,596,098	—	(1,596,098)
Indirect costs	<u>346,757</u>	<u>—</u>	<u>(346,757)</u>
Total costs	1,942,855	—	(1,942,855)
Less late penalty	<u>(1,000)</u>	<u>—</u>	<u>—</u>
Subtotals	1,941,855	(1,000)	(1,942,855)
Adjustment to eliminate negative balance	<u>—</u>	<u>(1,000)</u>	<u>1,000</u>
Net costs	<u>\$ 1,941,855</u>	—	<u>\$(1,941,855)</u>
Less amount paid by the State		<u>—</u>	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	

**Schedule 1 (continued)**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments <sup>1</sup></u>
<u>July 1, 2000, through June 30, 2001</u>			
Salaries	\$ 854,093	\$ —	\$ (854,093)
Benefits	251,103	—	(251,103)
Services and supplies	<u>425,108</u>	<u>—</u>	<u>(425,108)</u>
Total direct costs	1,530,304	—	(1,530,304)
Indirect costs	<u>362,136</u>	<u>—</u>	<u>(362,136)</u>
Total costs	<u>\$ 1,892,440</u>	—	<u>\$ (1,892,440)</u>
Less amount paid by the State		<u>(419,113)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u><u>\$(419,113)</u></u>	
<u>July 1, 2001, through June 30, 2002</u>			
Salaries	\$ —	\$ —	\$ —
Benefits	—	—	—
Services and supplies	<u>1,733,654</u>	<u>—</u>	<u>(1,733,654)</u>
Total direct costs	1,733,654	—	(1,733,654)
Indirect costs	<u>—</u>	<u>—</u>	<u>—</u>
Total costs	<u>\$ 1,733,654</u>	—	<u>\$ (1,733,654)</u>
Less amount paid by the State		<u>—</u>	
Allowable costs claimed in excess of (less than) amount paid		<u><u>\$ —</u></u>	
<u>Summary: July 1, 1994, through June 30, 2002</u>			
Salaries	\$ 5,368,834	\$ —	\$ (5,368,834)
Benefits	2,367,349	—	(2,367,349)
Services and supplies	<u>3,672,381</u>	<u>—</u>	<u>(3,672,381)</u>
Total direct costs	11,408,564	—	(11,408,564)
Indirect costs	<u>2,233,281</u>	<u>—</u>	<u>(2,233,281)</u>
Total costs	13,641,845	—	(13,641,845)
Less late penalty	<u>(1,000)</u>	<u>(1,000)</u>	<u>—</u>
Subtotals	13,640,845	(1,000)	(13,641,845)
Adjustment to eliminate negative balance	<u>—</u>	<u>(1,000)</u>	<u>1,000</u>
Net costs	<u>\$ 13,640,845</u>	—	<u>\$ (13,640,845)</u>
Less amount paid by the State		<u>(419,113)</u>	
Allowable costs claimed in excess of (less than) amount paid		<u><u>\$(419,113)</u></u>	

<sup>1</sup> See the Finding and Recommendation section.

# Finding and Recommendation

## **FINDING— Unallowable costs claimed**

The City of Long Beach did not support any of the costs for the initial claims it filed for the Peace Officers Procedural Bill of Rights Program (POBOR) totaling \$13,640,845 (\$13,641,845 less \$1,000 for filing a late claim) for the period of July 1, 1994, through June 30, 2002. The city did not provide any source documents to validate costs claimed. Consequently, all of the costs claimed are unallowable. Furthermore, the city inappropriately claimed \$3,572,061 of salaries, benefits, and related indirect costs as services and supplies.

The initial claims included costs incurred by the Long Beach Police Department's (LBPD) Internal Affairs Section and the City of Long Beach's Citizen Police Complaint Commission (CPCPC).

For LBPD's Internal Affairs Section, the city claimed \$5,368,834 in salaries and \$2,367,349 in benefits for the period of July 1, 1994, through June 30, 2001. The related indirect cost totals \$2,233,282. LBPD supported the costs only with two tables: the SB90-Category Matrix Table and the Formula Table. The SB90-Category Matrix Table identifies 23 categories of activities and the number of cases processed by category for FY 1994-95 through FY 2000-01. The Formula Table indicates the estimated hours by job classification required to complete each task in the 23 categories identified in the SB90-Category Matrix Table. Apart from these tables, LBPD did not provide any source documents to identify the individual cases or to support the estimated hours claimed per category. Following is a summary of the unallowable costs claimed for LBPD, by fiscal year:

<u>Fiscal Year</u>	<u>Salaries</u>	<u>Benefits</u>	<u>Related Indirect Costs</u>	<u>Total</u>
1994-95	\$ 750,909	\$ 410,271	\$ 256,811	\$ 1,417,991
1995-96	664,181	399,558	239,105	1,302,844
1996-97	685,352	344,980	339,935	1,370,267
1997-98	715,696	334,230	347,112	1,397,038
1998-99	820,738	319,076	341,427	1,481,241
1999-2000	877,865	308,131	346,757	1,532,753
2000-01	<u>854,093</u>	<u>251,103</u>	<u>362,135</u>	<u>1,467,331</u>
Totals	<u>\$ 5,368,834</u>	<u>\$ 2,367,349</u>	<u>\$ 2,233,282</u>	<u>\$ 9,969,465</u>

For the Long Beach CPCPC, the city inappropriately claimed \$2,355,295 of salaries, benefits, and indirect costs as services and supplies for the period of July 1, 1994, through June 30, 2002. Based on worksheets provided by LBPD, this amount should have been reported as \$1,343,229 in salaries, \$424,280 in benefits, and \$505,267 in indirect costs. The remaining balance of \$83,519 consisted of indirect costs inappropriately calculated on benefits for the period of July 1, 1994, through June 30, 2000. The city developed the indirect cost rate using salaries rather than salaries and benefits as the base. The city supported the CPCPC costs with only a schedule identified as "POBOR Hours by Fiscal Year," and annual hourly rate schedules for claimed salaries and benefits. The

schedule of POBOR hours by fiscal year indicates the estimated hours by job classification worked on the POBOR program. The annual hourly pay rate schedules indicate the hourly pay rate by job classification for commission members. Apart from these schedules, CPCC did not provide any source documents to identify the individual cases or to support the estimated hours claimed per category. Following is a summary of the unallowable costs claimed for CPCC, by fiscal year:

Fiscal Year	Claimed in Error as Services and Supplies				
	Salaries	Benefits	Related Indirect Costs	Overstated Indirect Costs	Total
1994-95	\$ 119,399	\$ 37,990	\$ 30,327	\$ 9,647	\$ 197,363
1995-96	122,384	39,235	26,190	8,395	196,204
1996-97	130,978	40,916	29,470	9,207	210,571
1997-98	141,154	43,087	35,712	10,899	230,852
1998-99	153,644	44,676	54,390	15,815	268,525
1999-2000	207,993	69,388	88,605	29,556	395,542
2000-01	231,637	79,356	111,876	—	422,869
2001-02	236,040	69,632	127,697	—	433,369
Totals	<u>\$1,343,229</u>	<u>\$ 424,280</u>	<u>\$ 504,267</u>	<u>\$ 83,519</u>	<u>\$2,355,295</u>

For LBPDP’s Internal Affairs Section, the city inappropriately claimed \$1,300,285 of salaries and benefits as services and supplies for the period of July 1, 2001, through June 20, 2002. LBPDP did not separately identify the costs between salaries and benefits. Based on LBPDP’s prior-year benefit rate, we reclassified this amount to \$1,004,857 in salaries and \$295,428 in benefits. LBPDP did not claim related indirect costs. LBPDP supported costs claimed with a letter signed by the internal affairs commander and a handwritten worksheet. LBPDP did not provide any other source documents to identify the individual cases or to support the estimated hours claimed per category. Following is a summary of the unallowable costs claimed for LBPDP, by fiscal year:

Fiscal Year	Claimed in Error as Services and Supplies			
	Salaries	Benefits	Related Indirect Costs	Total
2001-02	<u>\$ 1,004,857</u>	<u>\$ 295,428</u>	<u>\$ —</u>	<u>\$ 1,300,285</u>

In addition, the city claimed \$16,800 for amounts LBPDP paid to an outside consultant. LBPDP provided no support for this cost. Following is a summary of unallowable services and supplies costs claimed by fiscal year:

Fiscal Year	Services and Supplies
1999-2000	\$ 14,560
2000-01	<u>2,240</u>
Total	<u>\$ 16,800</u>

Following is a recap of total unallowable costs claimed by fiscal year:

Fiscal Year	Salaries	Benefits	Services and		Total
			Supplies	Indirect Costs	
1994-95	\$ (750,909)	\$ (410,271)	\$ (197,364)	\$ (256,810)	\$ (1,615,354)
1995-96	(664,181)	(399,558)	(196,204)	(239,105)	(1,499,048)
1996-97	(685,352)	(344,980)	(210,572)	(339,934)	(1,580,838)
1997-98	(715,696)	(334,230)	(230,852)	(347,112)	(1,627,890)
1998-99	(820,738)	(319,076)	(268,525)	(341,427)	(1,749,766)
1999-2000	(877,865)	(308,131)	(410,102)	(346,757)	(1,942,855)
2000-01	(854,093)	(251,103)	(425,108)	(362,136)	(1,892,440)
2001-02	—	—	(1,733,654)	—	(1,733,654)
Totals	<u>\$(5,368,834)</u>	<u>\$(2,367,349)</u>	<u>\$(3,672,381)</u>	<u>\$(2,233,281)</u>	<u>\$(13,641,845)</u>

*Parameters and Guidelines* for POBOR, adopted by the Commission on State Mandates on July 27, 2000, defines the criteria for the county's procedural protections 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 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 LBPD establish a system to track reimbursable mandated time based on the activities defined in *Parameters and Guidelines*. Also, we recommend that LBPD file claims only on reimbursable costs that it can support.

#### City's Response

The City disagrees with the conclusion that it is not entitled to reimbursement for any of the costs the City expended in order to comply with the State Mandated Peace Officers Procedural Bill of Rights Program. In addition, the City maintains that it provided relevant and responsive information in response to the State's request. The documentation provided supports the City's claim for reimbursement.

#### SCO's Comment

The finding and recommendation remain unchanged.

The City of Long Beach has not provided any source documents that validate costs claimed. Consequently, all of the costs remain unallowable.



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

---



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

ROBERT E. SHANNON  
City Attorney

HEATHER A. MAHOOD  
Assistant City Attorney

PRINCIPAL DEPUTIES

Barbara D. de Jong  
Dominic Holzhaus  
Michael J. Mais  
Belinda R. Mayes

December 2, 2004

DEPUTIES

Gary J. Anderson  
Alan D. Bennett  
Christina L. Checel  
Randall C. Fudge  
Charles M. Gale  
Michelle Gardner  
Everett L. Glenn  
Donna F. Gwin  
Monte H. Machit  
Lisa Peskay Malmsten  
James N. McCabe  
Barry M. Meyers  
Susan C. Oakley  
J. Charles Parkin  
Howard D. Russell  
Carol A. Shaw

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

Dear Mr. Spano:

The City of Long Beach ("City") received your October 29, 2004 letter on November 17, 2004. The City disagrees with the conclusion that it is not entitled to reimbursement for any of the costs the City expended in order to comply with the State Mandated Peace Officers Procedural Bill of Rights Program. In addition, the City maintains that it provided relevant and responsive information in response to the State's request. The documentation provided supports the City's claim for reimbursement.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

CHRISTINA L. CHECEL  
Deputy City Attorney

CLC/cj



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

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