

CITY OF SACRAMENTO

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, 2001, through June 30, 2004



STEVE WESTLY
California State Controller

July 2006



STEVE WESTLY
California State Controller

July 25, 2006

Gus Vina, Director of Finance
City of Sacramento
915 I Street, Room 105
Sacramento, CA 95814

Dear Mr. Vina:

The State Controller's Office audited the costs claimed by the City of Sacramento 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, 2001, through June 30, 2004.

The city claimed \$1,323,971 (\$1,324,971 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$469,058 is allowable and \$854,913 is unallowable. The unallowable costs occurred because the city claimed costs that were ineligible for reimbursement. The State made no payment to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling \$469,058, 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 (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 (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, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original signed by:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/ams

cc: Lieutenant Jim Maccoun
Sacramento Police Department
James Tilton, Program Budget Manager
Corrections and General Government
Department of Finance

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	2
Views of Responsible Officials	3
Restricted Use	3
Schedule 1—Summary of Program Costs.....	4
Findings and Recommendations.....	6
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Sacramento 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, 2001, through June 30, 2004. The last day of fieldwork was August 9, 2005.

The city claimed \$1,323,971 (\$1,324,971 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$469,058 is allowable and \$854,913 is unallowable. The unallowable costs occurred because the city claimed costs that were ineligible for reimbursement. The State made no payment to the city. The State will pay allowable costs claimed that exceed the amount paid, totaling \$469,058, contingent upon available appropriations.

Background

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

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

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

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. *Parameters and Guidelines* categorized reimbursable activities in the following four components: Administrative Activities, Administrative Appeal, Interrogations, 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, 2001, through June 30, 2004.

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.

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

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, the City of Sacramento claimed \$1,323,971 (\$1,324,971 less a \$1,000 penalty for filing a late claim) for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that \$469,058 is allowable and \$854,913 is unallowable.

For fiscal year (FY) 2001-02, the State made no payment to the city. Our audit disclosed that \$240,945 is allowable. The State will pay that amount contingent upon available appropriations.

For FY 2002-03, the State made no payment to the city. Our audit disclosed that \$118,643 is allowable. The State will pay that amount contingent upon available appropriations.

For FY 2003-04, the State made no payment to the city. Our audit disclosed that \$109,470 is allowable. The State will pay that amount contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on April 12, 2006. Jim Maccoun, Lieutenant, responded by letter dated April 27, 2006 (Attachment), generally agreeing with the findings, but disagreeing with several points regarding activities we identified as ineligible. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Sacramento, 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, 2001, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2001, through June 30, 2002</u>				
Salaries	\$ 277,849	\$ 110,106	\$ (167,743)	Finding 1
Benefits	76,606	30,470	(46,136)	Finding 1
Services and supplies	—	—	—	
Total direct costs	354,455	140,576	(213,879)	
Indirect costs	255,598	101,369	(154,229)	Finding 1
Total direct and indirect costs	610,053	241,945	(368,108)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 609,053</u>	240,945	<u>\$ (368,108)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 240,945</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Salaries	\$ 113,747	\$ 49,006	\$ (64,741)	Finding 1
Benefits	40,139	17,260	(22,879)	Finding 1
Services and supplies	—	—	—	
Total direct costs	153,886	66,266	(87,620)	
Indirect costs	97,041	52,377	(44,664)	Findings 1, 2
Total program costs	<u>\$ 250,927</u>	118,643	<u>\$ (132,284)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 118,643</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Salaries	\$ 170,882	\$ 41,621	\$ (129,261)	Finding 1
Benefits	92,645	22,479	(70,166)	Finding 1
Services and supplies	—	—	—	
Total direct costs	263,527	64,100	(199,427)	
Indirect costs	200,464	45,370	(155,094)	Findings 1, 2
Total program costs	<u>\$ 463,991</u>	109,470	<u>\$ (354,521)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 109,470</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary: July 1, 2001, through June 30, 2004</u>				
Salaries	\$ 562,478	\$ 200,733	\$ (361,745)	Finding 1
Benefits	209,390	70,209	(139,181)	Finding 1
Services and supplies	—	—	—	
Total direct costs	771,868	270,942	(500,926)	
Indirect costs	553,103	199,116	(353,987)	Finding 1
Total direct and indirect costs	1,324,971	470,058	(854,913)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$1,323,971</u>	469,058	<u>\$ (854,913)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 496,058</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

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

The city claimed \$1,324,970 in costs for the audit period. Of this amount, \$862,112 was unallowable because the activities claimed were not identified in the *Parameters and Guidelines* as reimbursable costs. A summary of the unallowable costs is as follows.

	Claimed Costs	Allowable Costs	Audit Adjustment
Administrative activities	\$ 358,204	\$ 63,708	\$ (294,496)
Interrogation	596,209	163,069	(423,140)
Adverse comments	380,558	236,082	(144,476)
Total	\$1,324,971	\$ 462,859	\$ (862,112)

Administrative Activities

For Administrative Activities, the city claimed \$358,204 in costs (\$210,478 in salaries and benefits and \$147,726 in related indirect costs). We determined that \$294,496 was for ineligible activities (\$172,953 in salaries and benefits, and \$121,543 in related indirect costs).

Parameters and Guidelines allows the following ongoing activities.

1. Developing or updating internal policies, procedures, manuals, and other materials pertaining to the conduct of the mandated activities.
2. Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.
3. Updating the status of the POBAR cases.

However, the city claimed the following activities that are not reimbursable.

- Maintaining correspondence with the accuser.
- Researching and documenting phone complaints.
- Performing complainant statement transcription.
- Conducting document and background checks.
- Preparing digital photographs for case files.
- Gathering evidence.
- Administrative activities performed by managerial staff.

Interrogation

For Interrogation, the city claimed \$586,209 in costs (\$339,545 in salaries and benefits, and \$246,664 in related indirect costs). We determined that \$423,140 was for ineligible activities (\$244,558 in salaries and benefits, and \$178,582 in related indirect costs).

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 under 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 COSM Final Staff Analysis to the adopted *Parameters and Guidelines* states:

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

Parameters and Guidelines, Section IV(C), also states that tape-recording the interrogation when the peace officer employee records the interrogation is reimbursable.

However, the city claimed the following activities that are not reimbursable.

- Preparing questions for the interviews.
- Assembling documents to review for the witness, accused, and/or representative.
- Preparation of witness, accused, and/or representative before interviews.
- Interrogation time for witnesses that were civilians.
- Interrogation time for witnessed or accused officers interrogated during normal duty hours.
- Document and background checks.
- Transcription costs incurred when the peace officer did not record the interrogation.

Adverse Comment

For Adverse Comment, the city claimed \$380,558 in costs (\$221,845 in salaries and benefits, and \$158,713 in related indirect costs). We determined that \$144,476 was for ineligible activities (\$83,415 in salaries and benefits, and \$61,061 in related indirect costs).

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.
- 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.

However, the city claimed the following activity that is not reimbursable:

- Finalization of cases (preparing case summary reports and performing binder preparation prior to cases proceeding to the Adverse Comment stage).

Summary

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.

The following table summarizes the audit adjustment.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Salaries	\$ (167,743)	\$ (64,741)	\$ (129,261)	\$ (361,745)
Benefits	(46,136)	(22,879)	(70,166)	(139,181)
Total salaries and benefits	(213,879)	(87,620)	(199,427)	(500,926)
Related indirect costs	(154,229)	(55,254)	(151,703)	(361,186)
Audit adjustment	<u>\$ (368,108)</u>	<u>\$ (142,874)</u>	<u>\$ (351,130)</u>	<u>\$ (862,112)</u>

Recommendation

We recommend that the city 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 Police Department generally agrees with this finding, but disagrees with several component activities in the draft audit report. Specific items that need to be resolved prior to the final draft are as follows:

- ◆ Interrogations: Tape Recording – Tape recording the interrogation is eligible for reimbursement when the subject also records the interrogation. According to the Statement of Decision adopted by the Commission on State Mandates on November 30, 1999, the City made it clear that all peace officers subject to interrogation under POBAR, tape the interrogation. The Police Department finds it unreasonable that the audit staff expects documentation that an officer taped an interrogation, when the City made it clear when the test claim was heard that this happens with “virtually every peace officer.” The Police Department asks that the disallowed costs of recording, transcription and tape costs be reinstated prior to issuing the draft report.
- ◆ Interrogations: Interview Time & Notice of Interrogation – The adjustments made to this section in the draft report are more unclear than presented in the exit conference. Interviews are almost always conducted on off-duty time for the subject of the investigation. The Police Department time claimed for interviews and notice of interrogation are clearly eligible cost components. The Police Department would like a more detailed explanation of adjustments or a chance to review audit staff work papers to ensure it understands the time adjustments for these activities.
- ◆ Adverse Comment – The Police Department activity claimed for this section is clearly eligible for reimbursement. Staff agrees that its “case finalization” does not fit within the Controller’s interpretation of the Parameters and Guidelines. Activities claimed for Adverse Comment fall well within the activities listed in the Parameters and Guidelines:
 - 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.
 - Noting on the document the subject’s refusal to sign the adverse comment and obtaining the signature or initials of the subject under such circumstances.

Although specific steps of the POBAR process are internally named differently than the activities outlined in the Parameters and Guidelines, steps claimed by Police Department staff are only performed to ensure the City’s compliance with the mandated legislation. The following excerpt from the top of page 7 of the Parameters and Guidelines guided the Police Department to claim those activities:

“Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.”

SCO's Comment

The fiscal impact of the finding remains unchanged. However, in reply to the city's response, we expanded upon the finding to clarify the audit adjustment.

The city states in its response that the Police Department generally agrees with this finding, but disagrees that several unallowable activities in the draft audit report related to Interrogation and Adverse Comment activities were ineligible for reimbursement. The city did not respond regarding the unallowable activities related to Administrative Activities.

Interrogation

For Interrogation, the Police Department disagreed that activities totaling \$50,228 (12%) of the \$423,140 Interrogation finding were ineligible.

In its response, the city questioned the audit findings for Interrogation–tape-recording (related to witness interviews) and Interrogations–interview time and notice of interrogation (related to accused interviews). The following table summarizes the audit finding for Interrogation.

	<u>Salaries and Benefits</u>	<u>Indirect Costs</u>	<u>Total</u>
Witness interviews	\$ (21,073)	\$ (15,565)	\$ (36,638)
Accused interviews	<u>(7,929)</u>	<u>(5,661)</u>	<u>(13,590)</u>
Subtotal	(29,002)	(21,226)	(50,228)
Other ineligible activities	<u>(215,556)</u>	<u>(157,356)</u>	<u>(372,912)</u>
Audit adjustment	<u>\$ (244,558)</u>	<u>\$ (178,582)</u>	<u>\$ (423,140)</u>

Interrogation–Tape-recording

This portion of the finding totals \$36,638 (\$21,073 in salaries and benefits and \$15,565 in related indirect costs). The finding is not based on documentation or lack of documentation, as the city suggests in its response. Instead, it is based solely upon independently conducted interviews with three sergeants within the Internal Affairs Department who understood how the city's interrogations were conducted and were familiar with the procedures that were in place during the audit period. We held these interviews to obtain audit evidence concerning the tape-recording of interrogations, as the city did not document in its case files whether or not accused officers or police-officer witnesses tape-recorded interrogations. Each sergeant confirmed that accused police officers almost always tape-record interrogations. However, the sergeants also stated that police officers interrogated as witnesses almost **never** tape-record interrogations. The audit finding is based solely on this audit evidence and only applies to recording costs claimed for police-officer witnesses.

The same information was provided to the city in response to a letter sent to the SCO audit manager on August 8, 2005. In our response, we noted the names of the sergeants who were interviewed and the dates on which the interviews took place. The city has not provided any additional

information stating that the information provided by these officers is incorrect nor provided any additional evidence indicating which police-officer witnesses also recorded interrogations.

Interrogation–Interview Time and Notice of Interrogation

This portion of the finding totals \$13,590 (\$7,929 in salaries and benefits, and \$5,661 in related indirect costs). We concur that providing prior notice to the peace officer regarding the nature of the investigation and identification of the investigating officers, as well as compensating peace officers for interrogations occurring during off-duty time, are eligible cost activities under the mandated program. Our audit finding did not include any costs claimed for notice of interrogation.

Our conclusions regarding the timing of interviews correspond with the city's statement in its response that "interviews are **almost always** [emphasis added] conducted on off-duty time for the subject of the investigation." We noted some instances in which interrogations were conducted during regular duty hours and the audit finding reflects those instances.

Adverse Comment

This portion of the finding totals \$114,476 (\$83,415 in salaries and benefits, and \$61,061 in related indirect costs).

The ineligible costs relate to finalization of cases. During the audit, Police Department staff concurred that the finalization of cases activity does not fit within the reimbursable activities identified under the Adverse Comment section of *Parameters and Guidelines*. We previously communicated this information to the city in response to a letter mailed to the SCO audit manager on August 8, 2005. In its subsequent response to the draft report, the city did not provide any additional information or challenge the previous understanding concerning the finalization of cases activity obtained during the course of audit fieldwork.

The city's response includes excerpts from the top of page 7 of the *Parameters and Guidelines*; it appears that these excerpts guided the Police Department to claim activities identified under the Adverse Comment section. However, the section referenced by the city should be applied in the limited context of providing notice of the adverse comment to the peace officer and providing the officer an opportunity to review, sign, and respond to the adverse comment. Consequently, reviewing the response to the adverse comment should be in the context of the following reimbursable activity: 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. However, the city claimed costs for an activity that is not reimbursable under the Adverse Comment section.

**FINDING 2—
Understated indirect
costs**

The city understated indirect costs by \$7,199 for FY 2002-03 and FY 2003-04. The misstatements resulted from the city's misallocation of salaries and benefits and other expenditures between excluded costs, allowable direct costs, and allowable indirect costs in its indirect cost rate proposals for the years under audit. In addition, the city did not offset allowable indirect costs by the associated revenues reported in the city's accounting records.

The misstated indirect costs are summarized as follows.

	Fiscal Year		Total
	2002-03	2003-04	
Allowable indirect cost rate	79.04%	70.78%	
Claimed indirect cost rate	(63.06)%	(76.07)%	
Misstated indirect cost rate	15.98%	(5.29)%	
Allowable salaries and benefits	× \$66,266	× \$64,100	
Audit adjustment	\$ 10,590	\$ (3,391)	\$ 7,199

Parameters and Guidelines for the POBOR program states that indirect costs are defined as costs which are incurred for a common or joint purpose that benefit more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs are eligible for reimbursement utilizing the procedure provided in the OMB A-87, *Cost Principles for State, Local, and Indian Tribal Governments*.

Parameters and Guidelines for the POBOR program and *Government Code* Section 17561 allow only reimbursement of actual increased costs incurred in the performance of mandated activities.

Recommendation

We recommend that the city establish and implement procedures to ensure that the calculation of indirect costs is consistent with guidelines provided in OMB A-87.

City's Response

The Police Department agrees with the finding and appreciates the State Controller's Office response to the City's concerns with indirect cost findings expressed following the exit conference.

SCO's Comment

The finding and recommendation remain unchanged.

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



DEPARTMENT OF
POLICE

ALBERT NÁJERA
CHIEF OF POLICE

STEVE SFGURA
DEPUTY CHIEF OF POLICE

RICK BRAZIEL
DEPUTY CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA

5770 FREEPORT BLVD., SUITE 100
SACRAMENTO, CA
95822-3516

PH 916-433-0800
FAX 916-433-0818
www.sacpd.org

April 27, 2006

Mr. Jim Spano
Audit Chief, Division of Audits
State Controller's Office
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Subject: Sacramento Police Department Response to POBAR Draft Audit Report

Dear Mr. Spano:

Thank you for providing the City of Sacramento Police Department with the preliminary findings in your audit report on the Peace Officer Bill of Rights state mandated program. This letter provides you with a response to your findings outlined in the draft audit report by the City on April 12, 2006.

Finding 1 – Unsupported Salaries & Benefits

The Police Department generally agrees with this finding, but disagrees with several component activities in the draft audit report. Specific items that need to be resolved prior to the final draft are as follows:

- ◆ **Interrogations: Tape Recording** – Tape recording the interrogation is eligible for reimbursement when the subject also records the interrogation. According to the Statement of Decision adopted by the Commission on State Mandates on November 30, 1999, the City made it clear that all peace officers subject to interrogation under POBAR, tape the interrogation. The Police Department finds it unreasonable that the audit staff expects documentation that an officer taped an interrogation, when the City made it clear when the test claim was heard that this happens with “virtually every peace officer.” The Police Department asks that the disallowed costs of recording, transcription and tape costs be reinstated prior to issuing the draft report.
- ◆ **Interrogations: Interview Time & Notice of Interrogation** – The adjustments made to this section in the draft report are more unclear than presented in the

The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.

exit conference. Interviews are almost always conducted on off-duty time for the subject of the investigation. The Police Department time claimed for interviews and notice of interrogation are clearly eligible cost components. The Police Department would like a more detailed explanation of adjustments or a chance to review audit staff work papers to ensure it understands the time adjustments for these activities.

- ◆ Adverse Comment – The Police Department activity claimed for this section is clearly eligible for reimbursement. Staff agrees that its “case finalization” does not fit within the Controller’s interpretation of the Parameters and Guidelines. Activities claimed for Adverse Comment fall well within the activities listed in the Parameters and Guidelines:
 - 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.
 - Noting on the document the subject’s refusal to sign the adverse comment and obtaining the signature or initials of the subject under such circumstances.

Although specific steps of the POBAR process are internally named differently than the activities outlined in the Parameters and Guidelines, steps claimed by Police Department staff are only performed to ensure the City’s compliance with the mandated legislation. The following excerpt from the top of page 7 of the Parameters and Guidelines guided the Police Department to claim those activities:

“Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.”

The Police Department asks that the disallowed costs related to Interrogations and Adverse Comment activities be reinstated prior to issuing the final audit report.

Finding 2 – Understated Indirect Costs

The Police Department agrees with the finding and appreciates the State Controller’s Office response to the City’s concerns with indirect cost findings expressed following the exit conference.

Conclusion

The Sacramento Police Department will carefully consider the items discussed in your findings. Staff will work with its consultant as well as involved internal affairs staff to

ensure that costs claimed for this program are eligible increased costs as a result of the mandate and that those costs are supported by appropriate documentation.

Again, thank you for this opportunity to submit written comments on the draft audit report findings. The Police Department would like to resolve all of the issues discussed in this letter prior your issuance of the final report. If you have any questions about this response, please do not hesitate to contact me at (916) 433-0866.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Maccoun", with a stylized flourish at the end.

Jim Maccoun
Lieutenant
Sacramento Police Department

Cc: Jim Vennemann, SCO Audit Manager
Masha Vorobyova, SCO Field Auditor
Walker Black, City of Sacramento, Finance Department
Patrick Dyer, Public Resource Management Group LLC
Allena Price, City of Sacramento, Sr. Accountant Auditor
Dee Contreras, City of Sacramento, Labor Relations

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

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