

SACRAMENTO COUNTY

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



JOHN CHIANG
California State Controller

November 2007



JOHN CHIANG
California State Controller

November 21, 2007

David Irish, CPA
Director of Finance
Sacramento County
700 H Street, Room 3650
Sacramento, CA 95814

Dear Mr. Irish:

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

The county claimed \$1,186,488 for the mandated program. Our audit disclosed that \$380,710 is allowable and \$805,778 is unallowable. The unallowable costs resulted primarily from the county claiming costs that were ineligible for reimbursement under the mandated program. The State paid the county \$16. The State will pay allowable costs claimed that exceed the amount paid, totaling \$380,694, contingent upon available appropriations.

If you disagree with the audit finding, 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/vb:wm

cc: Nancy Gust, Administrative Services Officer III
Sacramento County Sheriff's Department
Colleen Naas, Associate Administrative Analyst
Sacramento County District Attorney's Office
Todd Jerue, Program Budget Manager
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Sacramento 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, 2001, through June 30, 2004. The last day of fieldwork was August 9, 2007.

The county claimed \$1,186,488 for the mandated program. Our audit disclosed that \$380,710 is allowable and \$805,778 is unallowable. The unallowable costs resulted primarily from the county claiming costs that were ineligible for reimbursement under the mandated program. The State paid the county \$16. The State will pay allowable costs claimed that exceed the amount paid, totaling \$380,694, 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 (CSM) determined that this legislation imposed a state mandate reimbursable under Government Code section 17561 and adopted the statement of decision. 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. 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. CSM adopted the parameters and guidelines on July 27, 2000, and corrected them on August 17, 2000. The parameters and guidelines categorize 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, 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 county'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 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 Finding and Recommendation section of this report.

For the audit period, Sacramento County claimed \$1,186,488 for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that \$380,710 is allowable and \$805,778 is unallowable. The State paid the county \$16. The State will pay allowable costs claimed that exceed the amount paid, totaling \$380,694, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on September 28, 2007. Karen Gee, Senior Accounting Manager, Auditor-Controller's Office, responded by telephone on November 1, 2007, confirming that the audited departments (Sheriff and District Attorney) accept the audit finding without further comment.

Restricted Use

This report is solely for the information and use of Sacramento 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

**Schedule 1—
Summary of Program Costs
July 1, 2001, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2001, through June 30, 2002</u>			
Salaries	\$ 226,524	\$ 72,222	\$ (154,302)
Benefits	108,578	34,393	(74,185)
Total direct costs	335,102	106,615	(228,487)
Indirect costs	155,717	32,076	(123,641)
Total program costs	<u>\$ 490,819</u>	138,691	<u>\$ (352,128)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 138,691</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Salaries	\$ 195,824	\$ 49,725	\$ (146,099)
Benefits	92,413	23,514	(68,899)
Total direct costs	288,237	73,239	(214,998)
Indirect costs	134,472	34,156	(100,316)
Total program costs	<u>\$ 422,709</u>	107,395	<u>\$ (315,314)</u>
Less amount paid by the State		(16)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 107,379</u>	
<u>July 1, 2003, through June 30, 2004</u>			
Salaries	\$ 129,663	\$ 61,125	\$ (68,538)
Benefits	74,328	39,492	(34,836)
Total direct costs	203,991	100,617	(103,374)
Indirect costs	68,969	34,007	(34,962)
Total program costs	<u>\$ 272,960</u>	134,624	<u>\$ (138,336)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 134,624</u>	
<u>Summary: July 1, 2001, through June 30, 2004</u>			
Salaries	\$ 552,011	\$ 183,072	\$ (368,939)
Benefits	275,319	97,399	(177,920)
Total direct costs	827,330	280,471	(546,859)
Indirect costs	359,158	100,239	(258,919)
Total program costs	<u>\$ 1,186,488</u>	380,710	<u>\$ (805,778)</u>
Less amount paid by the State		(16)	
Allowable cost claimed in excess of (less than) amount paid		<u>\$ 380,694</u>	

¹ See the Finding and Recommendation section.

Schedule 1 (continued)

	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>Summary by Cost Component</u>			
Administrative activities	\$ 793	\$ —	\$ (793)
Interrogations	1,182,835	30,437	(1,152,398)
Adverse comment	2,860	350,273	347,413
Total program costs	<u>\$ 1,186,488</u>	<u>\$ 380,710</u>	<u>\$ (805,778)</u>

Finding and Recommendation

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

The county claimed \$827,330 in salaries and benefits and \$359,158 in related indirect costs for the audit period. Salary and benefit costs, totaling \$546,859, were unallowable because the county claimed costs that were not identified in the parameters and guidelines as reimbursable costs. Indirect costs from the unallowable costs total \$258,919.

Following is a summary of claimed, allowable, and unallowable costs for the audit period:

	Claimed Costs	Allowable Costs	Audit Adjustment
Salaries and benefits:			
Administrative activities:			
Sheriff’s Department	\$ —	\$ —	\$ —
District Attorney’s Department	550	—	(550)
Subtotal	550	—	(550)
Interrogations:			
Sheriff’s Department	542,478	21,909	(520,569)
District Attorney’s Department	5,217	407	(4,810)
Subtotal	547,695	22,316	(525,379)
Adverse comment:			
Sheriff’s Department ¹	277,098	256,168	(20,930)
District Attorney’s Department	1,987	1,987	—
Subtotal	279,085	258,155	(20,930)
Total salary and benefit costs	827,330	280,471	(546,859)
Related indirect costs	359,158	100,239	(258,919)
Total	<u>\$1,186,488</u>	<u>\$ 380,710</u>	<u>\$(805,778)</u>
Recap by department:			
Sheriff’s Department	\$1,175,364	\$ 377,278	\$(798,086)
District Attorney’s Department	11,124	3,432	(7,692)
Total	<u>\$1,186,488</u>	<u>\$ 380,710</u>	<u>\$(805,778)</u>

¹Amounts were misclassified under Interrogations.

Administrative Activities

For Administrative Activities, the county District Attorney’s department claimed \$550 in salary and benefit costs. We determined that the entire amount was unallowable, due to ineligible activities.

The parameters and guidelines allow the following ongoing activities:

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

However, the county claimed the ineligible activity of performing clerical tasks related to the upkeep of case documents.

Interrogations

For Interrogations, the county claimed \$824,793 in salary and benefit costs (\$819,576 by the Sheriff's Department and \$5,217 by the District Attorney's Department). Of this amount, we determined that \$277,098 of Sheriff's Department costs should have been claimed under the cost component of Adverse Comment. Accordingly, we reclassified these costs (see the Adverse Comment section below).

Of the remaining claimed amount of \$547,695, we determined that \$525,379 was unallowable (\$520,569 due to ineligible Sheriff's Department activities and \$4,810 due to ineligible District Attorney's Department activities).

The county included the following activities in its claims:

- Gathering reports and log sheets to prepare for case investigations
- Reviewing complaints, reports, and evidence
- Preparing an administrative notice of interrogation
- Preparing interrogation questions
- Conducting interrogations (during regular duty hours and overtime)
- Preparing for interviews
- Taping transcription time

The program's parameters and guidelines, section IV(C), state that claimants are not eligible for Interrogation activities when an interrogation of a peace officer is conducted during the normal working hours of the officer. 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.

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.

The parameters and guidelines, section IV(C), also state that tape recording the interrogation, when the peace officer employee records the interrogation, is reimbursable.

However, the county claimed time for the ineligible activities of conducting investigations and related investigative tasks, which included preparing for interviews, collecting evidence, and reviewing complaints. The county also conducted some interrogations during the peace officer employee's regular work hours, which is at odds with the off-duty hour requirement mentioned in the parameters and guidelines. Lastly, the county claimed tape transcription time for interrogations when the interrogated officers did not tape-record the interrogation.

Adverse Comment

For Adverse Comment, the county claimed \$1,987 in salary and benefit costs for the District Attorney's Department. The entire amount was allowable.

However, we determined that \$277,098 of Sheriff's Department salary and benefit costs for Adverse Comment was misclassified under the cost component of Interrogations. Of this amount, \$256,168 is allowable and \$20,930 is unallowable. The unallowable costs resulted from the department using, for several cases, time logs that were based entirely upon estimates to support claimed costs, as well as time claimed for a one case that did not involve a sworn peace officer.

The parameters and guidelines, section I, establish that the mandated program provides procedural protections of peace officers employed by local agencies and school districts.

The parameters and guidelines, section V(A), state that claimed costs must be supported by documentation that specifies the actual time devoted to reimbursable activities. Section VI further states that costs must be traceable to source documents that show evidence of the validity of claimed costs. However, the county supported claimed costs using estimated time documentation and, in one instance, claimed costs for an ineligible employee.

The following table summarizes the Interrogation costs that we reclassified as Adverse Comment costs and the unallowable costs that resulted from estimated time claimed and time claimed for an ineligible case:

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Salaries:				
Interrogations	\$ (64,592)	\$ (58,336)	\$ (58,210)	\$(181,138)
Adverse Comment	64,592	44,161	58,210	166,963
Subtotal	—	(14,175)	—	(14,175)
Benefits:				
Interrogations	(30,745)	(27,638)	(37,577)	(95,960)
Adverse Comment	30,745	20,883	37,577	89,205
Subtotal	—	(6,755)	—	(6,755)
Total	\$ —	\$ (20,930)	\$ —	\$ (20,930)

Recommendation

We recommend that the county review its current mandated cost claiming procedures to ensure that claimed salaries costs include only eligible costs, are based on actual costs, and are properly supported.

County's Response

The audited departments (Sheriff and District Attorney) accept the audit finding without further comment.

**State Controller's Office
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