

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD
ADMINISTRATIVE LAW JUDGE SHAWN CLOUGHESY
STATE OF CALIFORNIA

and Employee,
PEACE OFFICERS OF CALIFORNIA
and Petitioner,
CALIFORNIA STATEWIDE LAW
ENFORCEMENT ASSOCIATION

Case No.: SA-SV-171-S

Exclusive Representative.)
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1 ALJ CLOUGHESY: Let me get this out of your
2 way and we can bring in another witness and ask some
3 questions. Off the record.

4 (A brief pause transpired.)

5 ALJ CLOUGHESY: All right. We're back on the
6 record. Oh, I'm sorry.

7 MR. MESSING: Mr. Clark is not here.

8 ALJ CLOUGHESY: Off the record.

9 (A brief pause transpired.)

10 ALJ CLOUGHESY: All right. We're back on the
11 record. We have our next witness for the petitioner.
12 Sir, I'm going to ask you to raise your right hand. Do
13 you swear or affirm the testimony you'll be giving is
14 the truth, the whole truth, and nothing but the truth?

15 THE WITNESS: I do.

16 ALJ CLOUGHESY: Please state your name for the
17 record, spell your last name.

18 THE WITNESS: Richard Bergstresser,

19 B-E-R-G-S-T-R-E-S-S-E-R.

20 ALJ CLOUGHESY: All right. Sir, I'm going to
21 show you the document. It is Petitioner's C, which I'm
22 marking for the record as the declaration of Richard
23 Bergstresser. Attached to that document is the State
24 Personnel Board job specifications for -- can I take a
25 look at this real quick -- state park peace officer

1 cadet ranger, state park peace officer ranger, state
2 park peace officer supervisor ranger.

3 If you could take a look at that document and
4 I'm going to ask you a couple of foundational questions
5 about it.

6 THE WITNESS: Okay.

7 ALJ CLOUGHESY: And have you seen that
8 document before, sir?

9 THE WITNESS: I have.

10 ALJ CLOUGHESY: And what is it?

11 THE WITNESS: This is my attestation regarding
12 today's matter, as well as the job classification under
13 which I work.

14 ALJ CLOUGHESY: Excellent. Let's look to the
15 last page of that declaration.

16 THE WITNESS: Okay.

17 ALJ CLOUGHESY: Do you recognize that
18 signature on the bottom?

19 THE WITNESS: That is my signature.

20 ALJ CLOUGHESY: And is that the date that you
21 signed it that's indicated on that?

22 THE WITNESS: Yes, it is.

23 ALJ CLOUGHESY: And is everything stated on
24 that declaration true and correct to the best of your
25 knowledge?

1 THE WITNESS: To the best of my knowledge it
2 is.

3 ALJ CLOUGHESY: Any further questions of
4 qualification or --

5 MR. ROSE: Not at this time.

6 ALJ CLOUGHESY: All right. Mr. Messing.

7 MR. MESSING: I presume, by the way, that we
8 can release Craig Brown and John Miller from their
9 subpoena for today?

10 ALJ CLOUGHESY: Do you think we'll get to
11 them?

12 MR. ROSE: I doubt we'll get to Mr. Miller.
13 We've already contacted Mr. Brown and informed him that
14 it would be tomorrow. If Mr. -- do you know,
15 Mr. Messing, whether Mr. Miller is available tomorrow?

16 MR. MESSING: I don't know. I don't know.

17 MR. ROSE: So we'll have to call him at the
18 break, but I --

19 MR. MESSING: We can try that.

20 ALJ CLOUGHESY: Okay. You're going to release
21 him at this point or --

22 MR. ROSE: Mr. Brown, yes. Mr. Miller we'd
23 like to call at the break.

24 ALJ CLOUGHESY: Okay.

25 MR. ROSE: It's a quarter to 4. I guess we'll

1 see how it goes.

2 ALJ CLOUGHESY: We will see how it goes, and
3 I'm hoping much shorter than I expect, much shorter. I
4 expected Mr. Karnow to be kind of a more lengthy
5 witness. So, Mr. Messing.

6 EXAMINATION BY MR. MESSING:

7 Q. Okay. Let's see. Sir, you have been employed
8 as a park ranger since 2001?

9 A. Correct.

10 Q. Okay. And I don't recall your prior -- if you
11 had prior peace officer experience?

12 A. I did not.

13 Q. Okay. Now, in your declaration, page 4 at the
14 bottom of the page, paragraph 21, you list the various
15 codes that you enforce; is that right?

16 A. Correct.

17 Q. Okay. And can you explain what sort of things
18 that you enforce under the California Code of
19 Regulations?

20 A. California Code of Regulations, Title 14 is
21 the specific law for state parks. There is a
22 significant amount of law in there related to the
23 operation of state parks.

24 Q. Okay. Are there regs that are -- or rules and
25 regulations that are handled administratively under the

1 code of regulations in terms of what you enforce?

2 A. Everything I enforce is criminal.

3 Q. Okay. Now, you indicated somewhere in your
4 declaration that the folks that you work with when you
5 are carrying out your duties as a park ranger, are
6 local, state police, highway patrol predominately?

7 A. Highway patrol and local sheriff's department
8 predominately.

9 Q. Okay. And I notice that on page 8 of your
10 declaration, you say that, in paragraph 79, the
11 non-peace officer personnel I work with are not part of
12 Bargaining Unit 7?

13 A. That is correct.

14 Q. Okay. So you don't work with dispatchers?

15 A. That would be an omission. I do work with
16 dispatchers who are a part of Bargaining Unit 7.

17 Q. Okay. And you work with them on a daily
18 basis?

19 A. I do.

20 Q. Okay. Do those dispatchers -- those
21 dispatchers are your lifeline so that you can get backup
22 if you need it and --

23 A. They provide an essential function of my daily
24 duties, yes.

25 Q. Okay. Now, you don't work with lifeguards?

1 A. I do not.

2 Q. Are there park rangers who do work with
3 lifeguards?

4 A. There are.

5 Q. Some of them on a regular basis?

6 A. Yes.

7 Q. Okay. And those lifeguards might be permanent
8 or seasonal lifeguards?

9 A. The permanent lifeguards are peace officers,
10 as you know. The non-permanent lifeguards are seasonal
11 employees who are not peace officers.

12 Q. And they work with both?

13 A. Correct.

14 Q. Okay. So let's see here. Now, other folks
15 that you might work with, you wouldn't include OES
16 coordinators if there are fires or hazmat spills?

17 A. Not on a regular basis, certainly, but on an
18 emergency basis we would deal with potentially OES.

19 Q. But I mean you would expect to see OES only
20 when there's an emergency, right?

21 A. Indeed.

22 Q. Okay.

23 A. My clarification being it's a rare occurrence.

24 Q. Okay. Let's see. Do you use CLETs?

25 A. I do.

1 Q. And that system runs through the Department of
2 Justice?

3 A. Correct.

4 Q. And the people who work on the other end of
5 that system are criminal intelligence or identification
6 specialists, CIS's?

7 A. We're moving several steps away from my daily
8 duties, but I was -- if you say so, yes.

9 Q. All right. Those are non-sworn people who are
10 in the bargaining unit?

11 A. Okay.

12 Q. And just one more, while I'm on it. You said
13 you would respond to hazmat spills?

14 A. Correct.

15 Q. Those would be probably pretty important
16 occasions when there's a hazmat spill?

17 A. Indeed.

18 Q. And I would suspect that you might be working
19 with people who are in the OSPR classifications when
20 that occurs?

21 A. For the most part. As a first responder to
22 hazmat spills, we turn it over to fish and game or to
23 the highway patrol on -- as soon as possible. So
24 frankly, no, I don't work with those folks.

25 Q. How about other people in your bargaining

1 unit, other people who are park rangers?

2 A. I would say because our -- if not policy,
3 certainly our directive to turn over those incidents to
4 those who are specifically trained as soon as possible.

5 Q. Okay. So when you talk about turning them
6 over, you just don't walk away and say, here you are,
7 I'm gone?

8 A. No. We're a first responder.

9 Q. You're a first responder, so you have to take
10 certain steps to protect the scene from further
11 damage --

12 A. Indeed.

13 Q. -- correct. And to try and determine where
14 the source is of the -- that's creating the emergency?

15 A. If appropriate under the circumstances.

16 Q. Possibly isolate the area if it is -- if it's
17 dangerous?

18 A. Possibly.

19 Q. Then reporting all that you have done to the
20 people who take over?

21 A. Correct.

22 Q. Okay. So you do cover an important function
23 there?

24 A. I would say so. As a first responder,
25 absolutely.

1 Q. Okay. Just one other group I'm interested in
2 is conservationists. When there are fires or floods, I
3 gather your people are rounded up and put into action;
4 is that right?

5 A. As far as our interaction with the
6 conservationists, they certainly do a fair amount of
7 work in the park. They are not supervised by peace
8 officers. They are generally supervised by maintenance
9 staff. In an emergency situation such as that, we are
10 not a primary firefighting agency, so actually our
11 side-to-side work with the conservationists is minimal
12 if at all.

13 Q. How about on floods? I mean, you have to
14 evacuate people. Would that be something that you would
15 do?

16 A. In conjunction with the sheriff's department
17 who has the primary jurisdiction, yes, we would.

18 Q. Okay. And so if there's a flood, there are
19 people who are working putting sand bags up --

20 A. Uh-huh.

21 Q. -- and you have to have information from them
22 to know what are the affected areas, where are they
23 going to work, so that you know how to do your job of
24 protecting and evacuating the civilians?

25 A. That is true. At that point the (inaudible)

1 command structure would take place, and we are not at
2 the top of the (inaudible) command structure.

3 Q. But I'm not suggesting that you both have the
4 same supervision, but you work together with these
5 folks --

6 A. We work side --

7 Q. -- in such emergencies?

8 A. We potentially could work side by side in such
9 emergencies. To the extent that that's actually
10 happened, I couldn't tell you.

11 Q. Okay. Now, I'm going to take you to page 6 of
12 your declaration, and there's some things here -- I just
13 want to go over it. You said depending upon assignment
14 you may be called upon to operate a marked vessel. Have
15 you operated a marked vessel on waterways?

16 A. I specifically have not.

17 Q. No. Okay. Have you operated a marked
18 motorcycle in the performance of your duties?

19 A. I have not.

20 Q. I suppose you do operate all-terrain vehicles
21 in the performance of your duties?

22 A. Both 4-wheel drive vehicles and ATVs.

23 Q. And we'll come back to that in a minute. Have
24 you patrolled on horseback?

25 A. I have.

1 Q. When was the last time?

2 A. That would have been June of this year.

3 Q. Is that something you do often?

4 A. It is not.

5 Q. When was the last time before June of --

6 A. That was my first horse patrol.

7 Q. That was your first and your last?

8 A. It was my last one. Of my partners does it as
9 a regular basis.

10 Q. Okay. I presume that you don't patrol on a
11 bicycle?

12 A. I occasionally, very occasionally patrol on a
13 bicycle.

14 Q. Once every decade?

15 A. A couple times a summer.

16 Q. A couple of times a summer. How often do you
17 patrol on skis?

18 A. I do not. I do not work in an area with snow.

19 Q. Now I assume you -- when it says you patrol --
20 you may patrol via foot, is your primary method of
21 patrol in a vehicle?

22 A. I would say the majority of the time I'm on
23 patrol is in a vehicle.

24 Q. Okay. And that -- so you're not really
25 patrolling via foot. Isn't it true that the vehicle

1 would take you to some place you may investigate and get
2 out of the vehicle, but when you get back into it --

3 A. No, I wouldn't say that's true. The vehicle
4 will convey me to a certain location, I would get out
5 and patrol on foot from there.

6 Q. Would you say that the majority of your patrol
7 is done with a vehicle?

8 A. Yes, I would.

9 Q. Okay. Have you patrolled in a helicopter?

10 A. I have.

11 Q. Okay. Often?

12 A. Once or twice a year for the last five or six
13 years.

14 Q. Okay. Do you have a canine?

15 A. I do not.

16 Q. Have you ever had a canine?

17 A. I have not.

18 Q. So you have not patrolled with a canine?

19 A. I have partnered up with a person who was a
20 canine officer.

21 Q. But you weren't the handler?

22 A. No.

23 Q. Okay. Let me take you to the next page.

24 Actually, before I get to that, I said I would come back
25 to this so I don't want to go against my word. About

1 how much of your job involves patrol, either on foot, in
2 a vehicle, or by other means?

3 A. I would say in the neighborhood of 60 to 70
4 percent of my time is spent patrolling by one form or
5 another.

6 Q. Okay. Now, you indicated that you control
7 riots. Is that something you do often?

8 A. I have the ability to control riots.

9 Q. You haven't controlled one?

10 A. I have been with a multi-agency moment at a
11 civil (inaudible.) It did not turn into a violent
12 altercation.

13 Q. It didn't develop. That's good. Now, you
14 said 60 to 70 percent of your time is spent on patrol.
15 Would you say that that is a percentage that might --
16 that for other folks the patrol time might be even
17 greater than 60 to 70 percent?

18 A. Yes.

19 Q. Because you spend some of your time doing
20 investigations?

21 A. Investigations and other duties related to the
22 operation of state parks.

23 Q. Do you do community relations and teaching and
24 things of that sort?

25 A. Depending on assignment, yes.

1 Q. Okay. So how much of your time is spent
2 detaining suspects? Do you know?

3 A. A very small percentage. Of the actual
4 detention of suspects, it would probably be under 1
5 percent.

6 Q. You say you have the power to search subjects
7 -- suspects. I'm sorry. How much time do you spend
8 doing that?

9 A. As appropriate.

10 Q. 1 percent or less?

11 A. Yes.

12 Q. Okay. Now, you're vested with the power to
13 arrest. How many arrests do you make in the course of a
14 month?

15 A. I'll spread out to a year. I average three to
16 four arrests per year.

17 Q. Three to four arrests. Okay. You issue
18 citations for infractions and misdemeanors. About how
19 many citations do you issue in a year?

20 A. In the neighborhood of 30.

21 Q. Okay. Does that include traffic citations?

22 A. It does.

23 Q. About how many of the 30 citations are traffic
24 citations?

25 A. I would say roughly half of my citations are

1 traffic.

2 Q. Okay. Do you regularly serve arrested
3 warrants?

4 A. Not regularly.

5 Q. How often?

6 A. Less than once a year, once every couple of
7 years.

8 Q. One time a year or two. Do you write search
9 warrants?

10 A. I have written search warrants. It's not a
11 common occurrence. Again, on the neighborhood of once
12 every couple of years.

13 Q. Okay. How about is it any more frequent to
14 write affidavits in support of search warrants, or is
15 that about the same frequency?

16 A. It's a little more. Probably closer to one a
17 year. It happens a little more frequently.

18 Q. Okay. Do you testify in court?

19 A. I do.

20 Q. About how many times a year?

21 A. Five to eight.

22 Q. Okay. It says here that you testified as an
23 expert witness in state and federal courts. Have you
24 been qualified by a court as an expert witness in some
25 area?

1 A. I have not.

2 Q. Okay. So you have never testified as an
3 expert witness?

4 A. I myself have not.

5 Q. So this number 68 is incorrect? It says that
6 you testified as an expert witness?

7 A. If we're going under the qualification of
8 being certified as an expert witness, that would -- it
9 is incorrect.

10 Q. Okay. Thank you. Now, we're talking about
11 percentages defined with what you do. Let's go back to
12 the question of who you work with. It says that you
13 work with field maintenance workers, research
14 scientists, administrative staff, and trail staff. Do
15 you work with all of those?

16 A. Yes.

17 Q. Okay. What do you do when you work with field
18 maintenance workers?

19 A. As a regular part of patrol we observe issues
20 in the park that need attention from the maintenance
21 staff. Occasionally there will be a project that covers
22 more than one discipline such as the placing of
23 regulatory signage that we specify and they install. We
24 communicate on a regular basis because we are in the
25 visitor services businesses dealing with our visitors.

1 Q. And what about -- describe an interaction with
2 research scientists.

3 A. As the primary law enforcement for state
4 parks, we have to be educated as to a lot of the
5 research issues, and we get a lot of that from our
6 scientists. We also sometimes work concurrently with
7 them on projects such as forest thinning or invasive
8 species.

9 Q. When you say you work with them on that, how
10 do you work with them?

11 A. Well it can be a wide variety. There can be a
12 project that's originated out of the resource
13 scientist's office that needs implementation on a field
14 level and we'll help implement that. Sometimes we will
15 start a project at the field level and have to run it by
16 the scientists before being able to go forward with it.

17 Q. Okay. And administrative staff?

18 A. Personnel.

19 Q. Personnel issues?

20 A. That sort of thing.

21 Q. And what about -- what are trail staff and
22 what do you do with them?

23 A. We have a roads and trails department. They
24 do the maintenance and construction of trails. We
25 interact with them as far as closure orders for keeping

1 the public out of dangerous areas. We also work with
2 them on the routing of trails.

3 Q. Okay. So I take it that some of this stuff
4 that you describe, including the prior testimony
5 regarding your interaction with non-peace officers, that
6 that stuff takes place in the course of your patrol, a
7 lot of it?

8 A. A lot of it does. A lot of it takes place in
9 that other percentage of time that is not spent on
10 patrol.

11 Q. Okay. So your patrol is not all spent
12 enforcing criminal law; it's a breakdown of criminal
13 law, research management, dealing with the public?

14 A. I would say --

15 Q. (Inaudible.)

16 A. -- that at all points when I'm on patrol, my
17 primary duty is the enforcement of the law and that I
18 will do other things in the course of that.

19 Q. Okay. When you say "enforcement of law," you
20 mean to be watching -- I mean watching out for criminal
21 violations?

22 A. Correct.

23 Q. But at that time you're also watching for
24 problems with wildlife or resources or things of that
25 sort?

1 A. I observe everything in the park and deal with
2 it as appropriate.

3 Q. Okay. Now you have been involved in the --
4 have you been involved in CAUSE and CSLEA in the past?

5 A. To a certain degree.

6 Q. And do you keep up with what is being
7 discussed within -- as issues within the ranks of the
8 state park peace officers?

9 A. I do.

10 Q. Now, as I understand it, there's some --
11 there's a controversy currently between two camps of
12 park rangers, one group who call themselves generalists,
13 who believe in doing everything including teaching
14 community relations and the like, and another portion
15 who believe that they should be basically in enforcement
16 only?

17 A. I think to simplify it as being two specific
18 camps would be a very broad generalization that I
19 couldn't get onboard with, but there is significant
20 discussion, both within the Department of Parks and
21 Recreation and amongst the state park peace officers as
22 to what the appropriate job duties are in this day and
23 age.

24 Q. And there are people on the two extremes that
25 I --

1 A. There are always people on extremes.

2 Q. And then those who merge into the middle?

3 A. Absolutely, which would be the majority.

4 Q. Okay. Yeah. On the extreme of the
5 generalists, can you explain what their views are?

6 MR. ROSE: Objection. Calls for speculation.
7 Relevance and lacks foundation.

8 ALJ CLOUGHESY: Have you discussed this with
9 these individuals? Do you know who these --

10 THE WITNESS: I do.

11 MR. ROSE: There's no relevance and lacks
12 foundation.

13 ALJ CLOUGHESY: You know, just to kind of set
14 the background with what this issue is, I'm going to
15 overrule your objection. So as far as the people that
16 have a generalists extreme, I mean, and their idea of
17 what the job should be, what is it?

18 THE WITNESS: Do you want the short answer or
19 the long answer?

20 ALJ CLOUGHESY: Give me the thumbnail.

21 THE WITNESS: The thumbnail -- I'm going to
22 just do a brief moment of history in that the job of the
23 state park peace officer, the ranger, has evolved over
24 the course of years. Going back as far as 1864 with the
25 annexation of Yosemite, the primary job of the warden of

1 that was the protection of the land. As we have moved
2 forward through the years with the advent of the
3 National Park Service and the kind of softening of that
4 image going back to the teens and the twenties, the
5 emphasis moved to a generalist, which is somebody who
6 could both protect the park, interpret the park meaning
7 nature walks, campfire programs. Back in the day it was
8 actually someone who was called a park attendant and who
9 would split firewood, sell you the firewood, and then
10 write you a citation for picking up illegal firewood.

11 And as life has gone on, the world as we know
12 it has become far more complicated. In 1968 there was a
13 split in state parks between the maintenance and the
14 ranger ranks. Post-certification for the rangers came
15 shortly after that, and in 1982, I believe it might have
16 been right in there, our classifications changed to
17 830.2, the same Penal Code authority as the majority of
18 state peace officers.

19 Since that time, the number of park rangers
20 has shrunk because visitorship -- visitation has gone
21 through the roof forcing a lot of people to move away
22 from those generalist's duties more towards a law
23 enforcement role because that is the primary job, and
24 with less resources that's what we had to do.

25 There are still people in still some areas of

1 the state that lend themselves more to the generalist's
2 model. Where I work at Humble (ph) Redwoods, which is
3 very much a family-oriented type of park, we can still
4 fulfill the generalist's duty while still having the
5 majority of our time spent in law enforcement.

6 At a place like Folsom Lake just up the road,
7 our rangers are essentially peace officers 40, 50, 60
8 hours a week with no exception. There may be some very
9 extremes in the camps between generalists and peace
10 officers. We have some folks who advocate nothing but
11 law enforcement. We have other folks who advocate
12 keeping the generalist's role, but that is still
13 something that has evolved. And I understand, I believe
14 even the most hard-core generalists understand that
15 their primary duty is still public safety.

16 ALJ CLOUGHESY: All right. Thank you. Good.

17 BY MR. MESSING:

18 Q. Back to your declaration real quick.
19 Paragraph 74, you receive seniority status separate from
20 other state employees as a peace officer. Would you
21 believe that's a good thing? Do you believe that's
22 good?

23 A. I do.

24 Q. Okay. And you're in a separate promotional
25 system than non-peace officer employees. Do you think

1 that's a good thing?

2 A. I do.

3 Q. You're eligible for differential pay. What
4 kind of differential pay are you eligible for?

5 A. I'm eligible for nighttime differential, field
6 training officer differential, other training officer
7 differential. Those are the ones I specifically am
8 eligible for; although I will note that they are
9 significantly lower than industry standard.

10 Q. Well when you say "industry standard," what
11 standard are you referring to? What comparable's are
12 you using?

13 A. As I compare to other law enforcement agencies
14 throughout the state both local and the state, my
15 differentials lag behind.

16 Q. So do you believe that correctional officers
17 have a night differential?

18 A. I don't have that specific knowledge.

19 Q. Are their training officers in the Department
20 of Corrections?

21 A. There are.

22 Q. Do they get a lower or higher differential
23 than you do?

24 A. My understanding is they receive a higher
25 differential.

1 Q. Your understanding. How much higher?

2 A. I believe their differential is good for them
3 at all times as opposed to just when they have a trainee
4 with them.

5 Q. Did you actually do a study to determine that?

6 A. It's anecdotal.

7 Q. It's anecdotal?

8 A. That specific bit of knowledge.

9 Q. What is your differential?

10 A. 5 percent for nighttime, 5 percent for
11 non-training -- non-FTO training, and a two step bump
12 for FTO.

13 Q. Two steps would be much, approximately?

14 A. That's a moving target.

15 Q. In a percentage, what generally --

16 A. That would be 10 percent, generally speaking.

17 Q. Okay.

18 A. For the time period spent specifically with
19 the trainee.

20 Q. And then you think that those are not
21 comparable to local police agencies, for example?

22 A. Correct.

23 MR. ROSE: Objection. Asked and answered.

24 ALJ CLOUGHESY: Overruled. Go ahead.

25 BY MR. MESSING:

1 Q. Are you occasionally placed on standby?
2 A. Occasionally.
3 Q. Do you get standby pay?
4 A. I do.
5 Q. Going back to the night differential, do you
6 know when that was negotiated for this bargaining unit?
7 A. Not -- no, I don't.
8 Q. How about the FTO pay?
9 A. No, I don't know.
10 Q. Okay. Standby, if you're placed on standby,
11 do you get paid for that?
12 A. Yes. I believe it's one hour for every four
13 hours on standby, I believe.
14 Q. Every four hours. Okay. Do you know when
15 that was negotiated?
16 A. I do not. Prior to 2001. I know that.
17 Q. And is that standard in -- for law
18 enforcement?
19 A. I don't know that.
20 Q. Okay. Do you have a minimum for court-time
21 appearance?
22 A. I don't recall.
23 Q. Do you know what EIDL is?
24 A. I do not.
25 Q. Enhanced Industrial Disability Leave. Have

1 you heard of that?

2 A. I'm not familiar with it.

3 Q. So you don't know what that benefit is?

4 A. I'm not familiar with it.

5 Q. What kind of vacation benefits do you get?

6 A. I currently accrue vacation at the rate of 15
7 days per year, I believe.

8 Q. Okay. And have you analyzed whether that is
9 average, above average, or below average for -- in the
10 industry?

11 A. I have not.

12 Q. Are you not eligible for bilingual pay?

13 A. Some rangers are eligible for bilingual pay.

14 Q. Some?

15 A. Depending on assignment. For instance, my
16 location has a low percentage of Spanish speakers, so I
17 would not be eligible for it even if I had that skill.

18 Q. Do you know what the percentage is or dollar
19 figure for bilingual pay?

20 A. I don't know what the dollar figure is, and
21 the percentage is dictated by the Departments, I
22 believe.

23 Q. What is -- what is your educational or
24 post-incentive pay?

25 A. I believe it's 5 percent intermediate, 10

1 percent advanced, I believe.

2 Q. Do you also get educational incentive pay for
3 an AA and a BA?

4 A. Yes, I do. Yes, I do.

5 Q. Do you know how much that is?

6 A. I do not, but I believe they are also -- if
7 I'm not mistaken I believe the intermediate, certificate
8 and the BA pay -- offset either other. You can have one
9 or the other but not both.

10 Q. Do you know whether 5 percent and 10 percent
11 at the two levels, if that is above industry standards?

12 A. I do not know.

13 Q. Okay. Do you know where it stands in relation
14 to industry standards?

15 A. I do not. I suspect it's probably about in
16 the middle.

17 Q. Do you know what your longevity pay is?

18 A. It kicks in at 17 years, and I don't recall
19 the steps.

20 Q. Okay. Do you know what percentage do you get
21 at 17 years?

22 A. I do not recall.

23 Q. Do you know what the maximum percentage is?

24 A. I do not.

25 Q. Do you have any recollection as to whether or

1 not local agencies typically have longevity pay?

2 A. Many of them do, I believe.

3 Q. And many do not?

4 A. And probably safe to say maybe not. I believe
5 it's also safe to say that those that do, tend to kick
6 in before 17 years, but that's again speculation.

7 Q. I assume that you feel that -- well, just one
8 or two more other -- do park rangers receive retention
9 or recruitment bonuses?

10 A. They do.

11 Q. And do you remember when that was negotiated?

12 A. I believe that was 2002, but I don't recall.

13 Q. And do you know the amounts?

14 A. I think it's \$250 a month.

15 Q. Okay. And that still is in place today?

16 A. Yes.

17 Q. Okay. Yeah. Right. How about physical
18 fitness pay?

19 A. I'm eligible for physical fitness pay should I
20 pass a yearly physical test.

21 Q. And how much is that?

22 A. I believe it's \$60-some-odd a month. When it
23 was put in place, I believe it was the same amount to
24 offset union dues.

25 Q. You get a uniform allowance?

1 A. I do.

2 Q. How much is that?

3 A. \$640 per year, and it is taxed so the net is
4 in the \$450 range.

5 Q. Do you know when the \$640 was negotiated?

6 A. I do not.

7 Q. So now do you know what -- what is meant by a
8 total compensation survey?

9 A. Yes.

10 Q. Okay. Are you aware that the Department of
11 Personnel Administration did a total compensation survey
12 regarding park rangers, among others?

13 A. I am aware that the survey was conducted.

14 Q. Now, I take it you believe that park rangers
15 were inadequately represented by CSLEA in bargaining?

16 A. I do believe that.

17 Q. You do believe that. Okay. So you believe
18 that park rangers should have had better pay raises than
19 what they got?

20 A. In the long term, yes. And I also believe
21 that a lot of the incentives we received, we received
22 significantly after other agencies.

23 Q. Are you referring to the 3 percent at 50 plan?

24 A. Correct.

25 Q. Okay. Are you aware that when you received

1 the 3 percent at 50 plan, only the CHP had it and CDF
2 firefighters and CCPOA didn't get it until years later?

3 A. Yes. I'm also aware that most municipal or
4 many municipal and county agencies had received it prior
5 to that as well.

6 Q. But you are aware that you got it
7 substantially before CDF firefighters and CCPOA?

8 MR. ROSE: Objection. Asked and answered.

9 ALJ CLOUGHESY: Sustained.

10 BY MR. MESSING:

11 Q. Okay. Now, you when you took the position,
12 when you began to take the position that park rangers
13 were inadequately paid, what kind of -- did you rely on
14 surveys?

15 A. I did.

16 Q. Did you rely upon -- did you obtain surveys
17 that were performed by the Department of Personnel
18 Administration?

19 A. I did, in addition to surveys that we
20 commissioned ourselves.

21 Q. So I take it that you are familiar with the
22 2008 survey that was conducted by the Department of
23 Personnel Administration that found that park rangers
24 were 15.56 percent above the median in total
25 compensation?

1 MR. ROSE: Objection. Lacks foundation. Best
2 evidence.

3 MR. MESSING: I'm asking him if he's aware.

4 ALJ CLOUGHESY: Either you're aware or you're
5 not.

6 THE WITNESS: I'm not aware of that specific
7 figure.

8 BY MR. MESSING:

9 Q. Are you aware of that survey?

10 A. I am aware that a survey did take place, yes.

11 Q. Did you obtain the survey?

12 A. I have looked at the survey, yes.

13 Q. Okay. So I'm going to show you a copy of it
14 and ask you if you recognize it.

15 MR. ROSE: I object. This is an incomplete
16 document. It lacks foundation.

17 ALJ CLOUGHESY: You know, let me just have him
18 look at it, and he's seen the whole thing so I'm kind of
19 curious --

20 MR. MESSING: I'm going to ask him if he can
21 identify the document. You can't object to that.

22 THE WITNESS: I have seen the document.

23 BY MR. MESSING:

24 Q. Okay. Was this in response to --

25 ALJ CLOUGHESY: Wait a minute. If it gets

1 moved into evidence, then your objection is going to
2 fire up, sir.

3 BY MR. MESSING:

4 Q. Now, do you see the -- on page 22, the last
5 line, the bottom line?

6 A. Yes.

7 Q. Do you see the number 15.56 percent?

8 A. Uh-huh.

9 Q. Okay. Do you understand that that is based on
10 the comparison of total compensation?

11 A. I do understand that.

12 Q. Okay. Now, do you take issue with this
13 survey?

14 A. I don't have enough information as to the
15 methods created -- that were behind creating this survey
16 to say one way or the other. I don't know on who the
17 pool that we're being compared against was.

18 Q. The methodology for this survey was published
19 as part of the survey. Did you take any time to review
20 that?

21 A. I have not.

22 Q. Okay. Did you at any time try to perform or
23 deal with your own total compensation survey?

24 A. Can you clarify the question?

25 Q. Did you ever try to construct your own total

1 compensation --

2 A. We have constructed our own --

3 Q. Were you involved in that?

4 A. Yes, I was.

5 Q. So when was that?

6 A. The last one was in 2006, I believe.

7 Q. 2006?

8 A. Yes.

9 Q. So in 2006 did you know how much bilingual pay
10 was?

11 A. I did.

12 Q. And did you know how much the longevity pay
13 was?

14 A. Yes.

15 Q. Okay.

16 A. Anything that was in the contract at that
17 point, I had access to.

18 Q. All right. Did you know -- did you put a
19 numeric value on Enhanced Industrial Disability Leave as
20 part of your survey?

21 A. Our survey was conducted by an outside firm
22 that specializes in that sort of thing, and as to their
23 methodology, I don't have the papers in front of me so I
24 can't tell you.

25 Q. So you yourself weren't involved in making

1 that survey?

2 A. We contracted with a firm do make the survey.

3 Q. Okay. All right. And you didn't provide him
4 any raw data, you yourself?

5 A. I believe they got their raw data from LBDPA.

6 Q. Okay. Now, in 2007, under the -- you were
7 familiar with the contract that was in effect between
8 CSLEA and the State?

9 A. The contract between 2006 and 2008, yes.

10 Q. Okay. So you're familiar with the fact that
11 in January of 2007, there was a 5 percent increase for
12 everybody in the bargaining unit?

13 A. A step increase.

14 Q. Okay.

15 A. As opposed to a baseline increase, yes.

16 Q. So that increased the top pay?

17 A. Correct.

18 Q. Okay. Now, then you're also aware that there
19 was a mid contract reopener?

20 A. I am.

21 Q. And you're aware that everybody in the
22 bargaining unit got a 3.5 percent cost of living
23 increase?

24 A. Yes, I am.

25 Q. You're also aware that there was a 6.5 percent

1 additional equity increase for DOJ special agents, park
2 rangers, and fish and game wardens?

3 A. I am aware of that.

4 Q. And you're also aware that in January -- as a
5 result of that mid contract opener, in January of 2008
6 park rangers, along with DOJ special agents and fish and
7 game wardens, got another two step increase for 10
8 percent?

9 A. I am aware of that. One in January of 2008,
10 one in January of 2009.

11 Q. So currently since 2007, the pay has increased
12 for fish and game wardens, park rangers, and special
13 agents by 25 percent?

14 A. I am aware of that.

15 Q. Okay. Are you also aware of the fact that
16 with the exception of -- well, that other peace officers
17 and firefighters in the bargaining unit during this same
18 period of time only enjoyed up to a 17.5 percent pay
19 raise?

20 A. I am aware of that.

21 Q. Are you also aware of the fact that most of
22 the other non-sworn folks in the bargaining unit during
23 that period of time got a 5.5 to 7.5 percent increase
24 with \$1,000 bonus?

25 A. I am aware of that.

1 Q. Okay.

2 A. I'm also aware that in the years prior to
3 that, the salary had --

4 Q. There's no question pending.

5 ALJ CLOUGHESY: Agreed. Thank you.

6 BY MR. MESSING:

7 Q. Now, in your declaration you indicated that
8 you're currently represented by the state park peace
9 officers' association?

10 A. No. I am represented for collective
11 bargaining by the California Statewide Law Enforcement
12 Association.

13 Q. Right. And for grievances and other matters?

14 A. Currently for only grievances and collective
15 bargaining.

16 Q. Okay. And isn't it true that state park peace
17 officers' association is in trusteeship now?

18 A. I dispute that fact.

19 ALJ CLOUGHESY: I definitely don't want to
20 even get near that.

21 MR. MESSING: I will withdraw it. I will
22 withdraw the question. Let me move to a different area.

23 BY MR. MESSING:

24 Q. Okay. Now, is it not correct that you are
25 currently spearheading a grievance that's being handled

1 by CSLEA?

2 A. That is true.

3 Q. What is that grievance about?

4 A. It is about a requirement that the Department
5 of Parks and Recreational is trying to enforce that
6 compensatory time off not be used to support vacation
7 credits, time taken for vacation.

8 Q. I'm sorry.

9 A. For instance if you should bid for vacation
10 and after the fact instead of using vacation leave, use
11 compensatory time off, the Department is trying to make
12 sure you cannot use CTO.

13 Q. Restricting the use of CTO?

14 A. Correct.

15 Q. And I gather Larry Friedman is who is
16 assisting you with this grievance at CSLEA?

17 A. Correct.

18 Q. And Larry Friedman is the assistant chief
19 counsel of CSLEA, or he's the senior counsel?

20 A. Right.

21 Q. Sorry. Okay. And I gather to date you
22 expressed no issues about Larry Friedman's handling of
23 this grievance?

24 A. I have not.

25 Q. Now, if you would turn to the job

1 specification, I want you to just look at the typical
2 tasks.

3 A. Okay.

4 Q. It's about four little paragraphs.

5 A. Uh-huh.

6 Q. And you do agree that these -- describe the
7 typical tasks of a park ranger?

8 A. In broad strokes.

9 MR. MESSING: Nothing further at this time.

10 ALJ CLOUGHESY: Ms. Truong.

11 EXAMINATION BY MS. TRUONG:

12 Q. Page 9 of your declaration, you state that you
13 were a SPPOAC board member?

14 A. Correct.

15 Q. In your capacity board member, did you ever
16 participate in negotiations at the bargaining table?

17 A. Not at the bargaining table.

18 MS. TRUONG: No further questions.

19 ALJ CLOUGHESY: Mr. Rose?

20 MR. ROSE: Thank you, Judge.

21 EXAMINATION BY MR. ROSE:

22 Q. Mr. Bergstresser, do you need a break?

23 A. No.

24 Q. Going back to what's been handed to you and
25 marked for identification as Respondent's Exhibit E,

1 this is the --

2 A. Salary survey?

3 Q. Correct. If you would turn to page 18.

4 A. Okay.

5 Q. I am looking at a page that says Roman numeral
6 four, California Regional Survey Results. Are you with
7 me?

8 A. Yes, I am.

9 Q. And you had earlier testified, just to refresh
10 my memory, that you had previously seen this report
11 before today; is that correct?

12 A. Correct.

13 Q. If you look at the third full paragraph from
14 the top, the second sentence -- actually the entire
15 paragraph, it says also note that for some benchmark
16 classes, breaking down the data regional reveals few
17 matches reported by respondents for those classes in a
18 particular region. For example, there are only two
19 reported matches for the park ranger benchmark class in
20 each of the Northern California, Bay Area, and Central
21 California regions. In those cases, caution should be
22 taken in reviewing an interpreting the data. Do you see
23 that?

24 A. I do.

25 Q. Do you remember seeing that when you earlier

1 reviewed, prior to today, this CPS report?

2 A. I do not recall that; however, I do recall in
3 my -- our own efforts to do salary surveys, we reached
4 the same problem; that there was not a big statistical
5 sample to work with.

6 Q. Do you recall which firm did your 2006 salary
7 survey?

8 A. I do not, but I could provide that for you by
9 tomorrow.

10 Q. Do you have a copy of the salary survey with
11 you today?

12 A. I really, really doubt it, but I will check in
13 the car.

14 Q. Looking at the same page, bottom of the page,
15 you were asked a moment ago to interpret some of this
16 data. If you look at the park ranger classification at
17 the very bottom of that series of salary data, do you
18 see that? Are you with me?

19 A. I do.

20 Q. Going over to the third column to the right do
21 you see where it says state relationship to median and
22 then below that correlating to the park ranger
23 classification it says 2.59 percent?

24 A. I see that.

25 Q. Do you understand or can you discern what that

1 means by looking at this document?

2 A. That we are on base salary at 2.59 percent
3 above the median for the apparently two other
4 classifications they can compare us to.

5 Q. If you look to the far right column on the
6 same line, same row, state relationship to median, 4.75
7 percent, can you discern from looking at this data what
8 that means?

9 A. The same thing except for total compensation
10 that we are 4.75 percent above the other two agencies
11 they could find to compare us to.

12 Q. And by looking at the report, do you
13 understand the time frame that we're discussing in terms
14 of those numbers?

15 A. Not off the top of my head.

16 Q. Let me have you look at the top right corner
17 of page 18. Does that --

18 A. The survey was done in 2008. I have no idea
19 what the sampling data of it is from.

20 Q. Mr. -- Counsel for CSLEA asked you about
21 several pay increases totaling approximately 25 percent
22 in 2006. Do you remember that line of questioning?

23 A. I do.

24 Q. Can you discern from this document whether all
25 the pay increases describe by CSLEA's attorney are

1 incorporated or are not included into the 2.59 percent
2 above the average?

3 A. Depending on when the data was gathered, I
4 would say the only possible exception would be the 5
5 percent bump that happened on January 1st, of 2009.

6 Q. So let me, at the risk of a leading objection
7 but just to understand what you just said, are you
8 saying that 20 percent might be included in this and 5
9 percent not?

10 A. That would --

11 MR. MESSING: Object.

12 ALJ CLOUGHESY: That's my understanding, but
13 I'm actually going to allow the question. Is that your
14 --

15 THE WITNESS: Yeah. That would certainly be
16 -- since we have now finished and that 5 percent is the
17 only thing that could have not been there, then 25 minus
18 5 is 20.

19 BY MR. ROSE:

20 Q. Having --

21 MR. MESSING: Wait a minute. I'm sorry. I
22 didn't hear that. Could you repeat that?

23 THE WITNESS: My understanding is if this
24 indeed was created in 2008 using data current as of
25 2008, that the only thing possibly missing from the park

1 ranger's classification would be 5 percent.

2 BY MR. ROSE:

3 Q. Do you draw a conclusion about the salaries of
4 park rangers prior to last year?

5 A. Prior to this recent 25 percent, this tells me
6 that we were significantly behind the other
7 classifications.

8 Q. Does that comport with your belief as you sit
9 here today with respect to CSLEA's adequacy of
10 representation over the last many years?

11 MR. MESSING: Object. Leading.

12 ALJ CLOUGHESY: Sustained.

13 MR. ROSE: I will withdraw the question. One
14 minute please.

15 BY MR. ROSE:

16 Q. You were asked a series of questions about
17 your job duties, specifically with reference to criminal
18 law enforcement. Do you remember that line of
19 questioning?

20 A. Yes, I do.

21 Q. Could you estimate for me what percentage of
22 time you estimate in the last year you have spent
23 enforcing criminal laws in state parks?

24 A. I would ask for clarification on what
25 "enforcing" means. I mean, if we're talking about

1 actual time with a suspect, 1 to 3 percent of the time.
2 If we're talking about actively patrolling to route out
3 criminal activity, 60 to 70 percent as I told
4 Mr. Messing.

5 Q. And earlier you were discussing how you might
6 perhaps be performing a function relating to routing out
7 crime, so to speak, or police work and also perhaps
8 dealing with administrative matters --

9 A. Uh-huh.

10 Q. -- such as resource management. Do you recall
11 that line of questioning?

12 A. I do.

13 Q. If you are engaged in one activity such as
14 resource management and engaged -- and then you witness
15 a crime, for example, do you have an opinion or belief
16 as to what your duties require to you do with respect to
17 either of those duties, of those current activities?

18 A. My primary duty at all times as spelled out in
19 Public Resources Code 5,008 is to enforce the law and
20 protect the state park.

21 Q. You were asked a series of questions about
22 people that you work with. Do you remember that line of
23 questioning?

24 A. I do.

25 Q. You were specifically asked whether you worked

1 with dispatchers. Do you remember?

2 A. I do.

3 Q. Which dispatcher are you working with?

4 A. I work with the northern dispatch center in
5 Rancho Cordova.

6 Q. Are those dispatchers in any way connected to
7 dispatchers for the California Highway Patrol?

8 A. They are not.

9 Q. Do you work with any dispatchers that work
10 with -- involving the California Highway Patrol?

11 A. No.

12 Q. Are you aware whether dispatchers for the
13 California Highway Patrol are in the California Highway
14 Patrol's bargaining unit?

15 A. I know for a fact that they're in unit 7.

16 Q. I believe you said that the dispatchers that
17 you interact with provide an essential function to you.
18 Do you recall that answer?

19 A. Yes.

20 Q. Do you ever interface with California Highway
21 Patrol officers in your line of work as park ranger?

22 A. Regularly.

23 Q. Based on your interaction with those officers,
24 are you aware or not whether -- what function the
25 dispatchers for highway patrol in Bargaining Unit 7

1 provide to those officers?

2 A. I believe it's a function very similar to the
3 one provided by our dispatchers to us.

4 Q. Yet they're in your bargaining unit, correct?

5 A. Correct.

6 Q. Are non-sworn employees of the state entitled,
7 based on your knowledge, to use the CLET system?

8 A. Not without specific DOJ clearance prior.

9 Q. You talked about being a first responder for
10 hazardous materials. Do you recall that line of
11 questioning?

12 A. Yes.

13 Q. Do you consider that a function of your peace
14 officer role or not?

15 A. Yes.

16 Q. You never had any interaction -- any
17 interaction with park rangers who are assigned to the
18 Los Angeles area?

19 A. Yes.

20 Q. Have you ever yourself been assigned there?

21 A. I have not.

22 Q. What interaction have you had with park
23 rangers like yourself but assigned to Los Angeles?

24 A. Both in a social environment and in my
25 activities with the State Park Peace Officers'

1 Association, the employee association trying to
2 represent their issues to the Department and to CSLEA.

3 Q. In that connection have you discussed with
4 those employees the nature of their job duties in that
5 geographical area?

6 A. I have.

7 Q. And have you learned anything about percentage
8 of time those park rangers in Los Angeles are spending
9 doing police work or law enforcement type activities
10 versus administrative or resource management type
11 activities?

12 A. My understanding is that in Los Angeles, a
13 much higher percentage of time is spent on law
14 enforcement and public safety, far less on
15 administrative resources, that sort of thing. In fact,
16 I could go on in various locals throughout the state and
17 point out differences in the percentages of things
18 people do.

19 Q. When you -- you had earlier estimated that you
20 are at 60 to 70 percent, you thought, in terms of
21 criminal enforcement. How -- based on your knowledge of
22 your interaction with these rangers in Los Angeles, how
23 would that compares percentagewise?

24 MR. MESSING: I'm going to object. It
25 mischaracterizes the testimony. The witness gave -- and

1 it's vague and ambiguous because the witness gave two
2 definitions of criminal enforcement.

3 ALJ CLOUGHESY: Okay. Sustained. You can
4 clean that up, Mr. Rose. That's easy.

5 MR. ROSE: All right. Well --

6 ALJ CLOUGHESY: If you want to do patrol or we
7 have patrol versus actually restraining or detaining or
8 whatever, but the 70 -- this witness clarified that the
9 60 to 70 percent had to do with patrol.

10 BY MR. ROSE:

11 Q. Is that correct?

12 A. Correct.

13 Q. So keeping your answer in mind, my question of
14 -- I'll try to (inaudible) 60 to 70 percent patrol for
15 you based on your interaction with rangers in Los
16 Angeles, could you give us an estimate of those officers
17 on patrol?

18 A. I would estimate them to be in the 90 percent
19 range on patrol.

20 Q. Do you know, based on your interaction with
21 those officers, whether they interact with other law
22 enforcement agencies as well?

23 A. They do.

24 Q. Do you know for example with specific
25 reference to the Los Angeles officers, who they interact

1 with?

2 A. Los Angeles Sheriff's Department, Los Angeles
3 Police Department, various municipal police departments
4 throughout the metropolitan area, highway patrol, fish
5 and game, parole.

6 Q. You earlier testified that the -- Mr. Messing
7 asked you to give an answer, which you gave a quite
8 detailed answer about the concept of generalists verse
9 enforcement only philosophies in your ranks. Do you
10 recall that line of questioning?

11 A. Yes.

12 Q. And I believe you said, and correct me if I'm
13 wrong, please, that that -- that the job that you do now
14 has evolved over the years. Is that true?

15 A. Indeed.

16 Q. You were first hired in 2001?

17 A. Correct.

18 Q. Can you describe how, if at all, the job has
19 evolved since you came onboard in 2001 with respect to
20 the generalists versus enforcement philosophies or job
21 duties?

22 A. Sure. Just in that short time I would say it
23 has evolved more towards the law enforcement role.
24 That's a function of a number of things. One is lower
25 staffing forcing less primary duties onto the back

1 burner. Some people are spending more time on law
2 enforcement. I believe also within our department we
3 have seen an emphasis -- we recently shifted from having
4 a public safety department -- a public safety section to
5 a law enforcement emergency services division showing
6 that there's been a significant increase in emphasis
7 from within the Department on the law enforcement
8 emergency services role.

9 I could also point out that I was a member of
10 the Department's generalist task force in 2006 to
11 examine the entire issue, and I have a lot of data going
12 back decades on the entire topic, including surveys of
13 time spent in various tasks and staffing levels, visitor
14 levels, all that sort of thing.

15 Q. In your -- in your having been involved in
16 this task force to study this issue, did you become
17 familiar at all with job duties as they existed prior to
18 your arrival within the Department in 2001?

19 A. I did.

20 Q. Are you aware that there was a petition filed
21 to sever Bargaining Unit 7 in 1988 and a decision issued
22 in 1989?

23 A. I am aware.

24 Q. Based on your involvement in that task force,
25 do you have -- have you formulated an idea of whether --

1 whether or not the job duties have changed since 1989 to
2 the park rangers?

3 A. I believe on paper the job duties have stayed
4 the same. I believe the actual percentage of time spent
5 involved in law enforcement in the field has gone up
6 significantly due to a number of factors, visitation.
7 Again, there was something called the Phoenix Committee,
8 a large reorganization of the Department in 1992 and '93
9 that cut down significantly on the number of rangers in
10 the field. There are a lot of factors that go into it,
11 but in the intervening 20 years there's a much larger
12 emphasis on law enforcement.

13 MR. ROSE: Thank you. Nothing further at this
14 time?

15 ALJ CLOUGHESY: Mr. Messing.

16 MR. MESSING: Just a couple of quick things.

17 EXAMINATION BY MR. MESSING:

18 Q. First, 2007 you're aware that there was a
19 conference in Reno?

20 A. Uh-huh.

21 Q. And Kasey Clark was there with also Paul
22 Sarkowski (ph) to deal with training issue?

23 A. Right.

24 Q. Yes. One of the things that for example that
25 -- where the park rangers were trained was the Peace

1 Officers' Bill of Rights?

2 A. Correct.

3 Q. Okay. And that was a SPPOAC conference,
4 right?

5 A. Correct.

6 Q. All right. Another thing is back to those
7 dispatchers. I'm pretty sure that you testified that
8 the dispatchers that you work with on a daily basis are
9 in Bargaining Unit 7?

10 A. Correct.

11 Q. Okay. Last but not least, on the survey, I
12 just want to make sure I understand you correctly.

13 A. Okay.

14 Q. Page 18 at the bottom of the page.

15 A. Yes.

16 Q. If this -- is it your testimony that if this
17 -- since this was done in 2008, another 5 percent pay
18 increase may not have been included for state park
19 rangers?

20 A. Or any other raises including the other
21 classifications as well.

22 Q. But if the 5 percent were not reflected here
23 or were reflected, on the bottom of page 18 the number
24 would be 7.59 percent stable relationship to the median
25 and --

1 A. I -- I would dispute that because all the
2 other factors would likely be adjusted similarly, so
3 it's an apples and oranges discussion.

4 Q. Okay.

5 MR. MESSING: Nothing further.

6 ALJ CLOUGHESY: Ms. Truong.

7 MS. TRUONG: Just another couple of questions.

8 EXAMINATION BY MS. TRUONG:

9 Q. You made a statement that non-sworn have
10 access to CLETS but only after clearance by DOJ?

11 A. Correct. That's my understanding.

12 Q. Did you ever have to go through DOJ as part of
13 being a sworn peace officer in order to access CLETS?

14 A. My -- my understanding is my peace officer
15 status under 830.2PC removes me from that requirement.

16 Q. Okay. And then as part of your preemployment
17 enforcement background examination, who would have been
18 taking a look at your preemployment enforcement
19 background examination?

20 A. Just a background check? Is that --

21 Q. Yes.

22 A. Yeah. That's an internal issue within state
23 parks. They assign background investigators who do
24 fairly extensive background investigation.

25 Q. So the Department of Justice doesn't do any

1 background investigation?

2 A. I couldn't speak to it, but I am sure that
3 there is some small element that goes through DOJ. But
4 as to the specifics, you would have to check with the
5 Department. I'm not an internal investigator.

6 MS. TRUONG: Nothing further.

7 ALJ CLOUGHESY: Sir, you ever been a
8 gentleman.

9 THE WITNESS: Thank you.

10 ALJ CLOUGHESY: And let's go off -- oh, I'm
11 sorry. When -- any objection to C, the declaration and
12 the attached spec.

13 MR. MESSING: No.

14 ALJ CLOUGHESY: Ms. Truong, on your part?

15 MS. TRUONG: No.

16 ALJ CLOUGHESY: C is admitted. Adjourned for
17 the day, Mr. Rose?

18 MR. ROSE: Well, considering we're on a tight
19 time, I would like to at least get through the
20 preliminaries of the declaration, since we have 15
21 minutes, if there's no objection.

22 MR. MESSING: Well I need to actually take
23 care of some personal business.

24 ALJ CLOUGHESY: Well the declaration is going
25 to be real quick.

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CERTIFICATE OF SHORTHAND REPORTER

I, TERRIE CULP-SMITH, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the preceding in shorthand writing from the tapes that were provided to me; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceeding, or in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of February 2009.

Terrie Culp-Smith
Shorthand Reporter