

March 11, 2009

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BEFORE THE STATE OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of:	)	
	)	
STATE OF CALIFORNIA, Employer,	)	Unfair Practice
and PEACE OFFICERS OF CALIFORNIA,	)	Charge No.
Petitioner, and CALIFORNIA	)	SA-SV-171-S
STATEWIDE LAW ENFORCEMENT ASSOC.,	)	
Exclusive Representative.	)	
	)	
_____	)	

MARCH 11, 2009

SHAWN CLOUGHESY  
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD  
1031 18th Street, Room 214  
Sacramento, CA

Transcribed by: Leisa M. Miller

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APPEARANCES

Administrative Law Judge

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1 MS. TRUONG: No.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: On behalf of the  
3 Petitioner?

4 MR. ROSE: No.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I think we're  
6 ready for our witness, sir.

7 MR. MESSING: How did you know that he was the  
8 witness?

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, I just  
10 made an educated guess. And please be seated. And sir,  
11 I'm going to ask you to raise your right hand.

12 (Witness sworn by the Judge.)

13 THE WITNESS: Yes.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state  
15 your name for the record, spelling your last name.

16 THE WITNESS: Mark Palmer. P-A-L-M-E-R.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
18 Marking as Exclusive Representative O what appears to be  
19 a Declaration of Mark Palmer.

20 (Exclusive Representative's Exhibit O marked  
21 for identification.)

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And I have a  
23 couple preliminary questions for you, sir, before I even  
24 show you this. Have you ever received any copies of any  
25 transcripts of these proceedings?

1 THE WITNESS: Copies of transcript, no, I haven't.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
3 have you ever as an -- do you know who James Cline is?

4 THE WITNESS: No.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I'm  
6 not saying you have to.

7 THE WITNESS: I'm just thinking. No.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
9 Other than that, I'm showing to you a document that is  
10 marked as Exclusive Representative O. If you can take a  
11 look at that and then tell me what it is and what you  
12 identify it as.

13 THE WITNESS: Okay. This is my Declaration that I  
14 prepared with regards to this case.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
16 if you can turn to the last page of the Declaration  
17 itself, your signature page?

18 THE WITNESS: Okay.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And is that your  
20 signature, a copy thereof, sir?

21 THE WITNESS: Yes, that is my signature.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And did you sign  
23 it on or about the date set forth in that Declaration and  
24 in that location?

25 THE WITNESS: Yes.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And is the  
2 document true and accurate to the best of your  
3 recollection?

4 THE WITNESS: Yes, it is.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Any  
6 remaining questions, Mr. Messing, before the witness is  
7 passed?

8 MR. MESSING: Yes. Just a few.

9 TESTIMONY OF

10 MARK PALMER,

11 Having been duly and regularly sworn, testified as  
12 follows:

13 DIRECT EXAMINATION

14 BY MR. MESSING:

15 Q. Mr. Palmer, are you a member of CAUSE?

16 A. Yes, I am.

17 Q. Okay. Are you -- can you tell the Law Judge what  
18 affiliate of CAUSE you belong to? CSLEA. Pardon me.

19 A. Yes. It's CACI, California Association of  
20 Criminal Investigators affiliate.

21 Q. Okay. And do you have a position in that  
22 affiliate?

23 A. I do. It's that of a Director, which makes up  
24 the Board. There are seven Directors which makes up the  
25 CACI Board. And I've been Director for approximately

1 almost two years.

2 Q. Okay. Are there -- and what is the composition  
3 of that unit as pertaining to peace officers and non-  
4 peace officers?

5 A. In other words, who do we represent?

6 Q. Yes.

7 A. Various departments. Department of Insurance,  
8 Department of Health Services, Medical Board, Department  
9 of Consumer Affairs. They are -- part of the hospital  
10 police. Several agencies are represented.

11 Q. Okay. And are they sworn or non-sworn members?

12 A. They're sworn members.

13 Q. Now, do you have occasion to deal with issues/  
14 problems of your membership?

15 A. Yes, I do.

16 Q. Okay. Can you describe what the process would be  
17 if you are requested to give assistance to a member?

18 A. Yes. Typically, and it has not happened often,  
19 but typically a member will either e-mail me or telephone  
20 me and describe a situation within the work environment  
21 that they are having an issue with. Whether it's  
22 something that they feel that may be creating a hostile  
23 work environment, or something of that nature, they'll  
24 describe the details of the issue to me.

25 Q. Okay. And what do you once you've learned the --

1 about the problem?

2 A. I typically will refer them to our legal person,  
3 or our Legal Division within CSLEA since I'm not an  
4 attorney.

5 Q. Okay. And who is that generally that you refer  
6 to?

7 A. To Kasey Clark. I believe he's assigned to  
8 represent the Department of Insurance Fraud Division  
9 members.

10 Q. Okay. Have you talked directly with Kasey Clark  
11 about some of these issues that have come up?

12 A. Yes.

13 Q. Okay. And how would you characterize Kasey  
14 Clark's responsiveness to your inquiries?

15 A. Timely. Timely response.

16 Q. Of the issues that you have forwarded on to  
17 Mr. Clark, have you had any members come back to you and  
18 complain about the representation they received from  
19 CSLEA?

20 A. No.

21 Q. Okay. I will pass the member. Oh, just one last  
22 thing. How long have you been in your current position?  
23 Is that in the Declaration? I'm not sure. But just for  
24 the record, in your current position.

25 A. My position with the Board, in other words, or --

1 Q. No. Your position with the --

2 A. With my Department?

3 Q. -- with the agency, yes.

4 A. July 2000.

5 Q. Okay.

6 A. So almost nine years.

7 Q. Yeah. I just found it in the Declaration.

8 MR. MESSING: Okay. I pass the witness to Mr. Rose.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I'll  
10 go to Exclusive Rep [sic] first.

11 MR. ROSE: Thank you.

12 CROSS-EXAMINATION

13 BY MR. ROSE:

14 Q. Good morning, Mr. Palmer.

15 A. Good morning, sir.

16 Q. My name is Joe Rose. I'm an attorney  
17 representing Peace Officers of California. I see that  
18 you were formerly a peace officer with the San Francisco  
19 Police Department for nine years.

20 A. That's correct.

21 Q. During your -- well, what years did you work at  
22 San Francisco PD?

23 A. December 1980 through December 1989.

24 Q. While working at San Francisco Police Department  
25 did you have occasion to work with employees who were not

1 sworn peace officers?

2 A. Yes.

3 Q. And by employees I mean employees of the City of  
4 San Francisco.

5 A. Yes.

6 Q. And could you give us a summary of the types of  
7 non-sworn employees that you worked with while a police  
8 officer with the City and County of San Francisco?

9 A. Well, clerks within the district that I was  
10 assigned to. Dispatchers who were assigned to the Hall  
11 of Justice that would dispatch units to scenes, various  
12 reports of crimes and such. Of course, district  
13 attorneys, public defenders. And any other non-sworn  
14 person that would work out of the Hall of Justice,  
15 records people, people like that, clerks, administrators,  
16 supervisors of theirs, and such.

17 Q. Did you ever work with any ballistics employees,  
18 firearms employees that were non-sworn while at the City  
19 and County of San Francisco?

20 A. No. For example, the crime lab ballistics people  
21 you mean or --

22 Q. Correct.

23 A. I don't believe so directly, no.

24 Q. How about field evidence technicians, or a  
25 similar position? Did you work with classifications of

1 employees that came out to the field and collected  
2 evidence?

3 A. Typically not, no. I was on patrol. And so if  
4 we secured a scene and they needed the crime lab to  
5 respond -- you know, I'm trying to think. At that time I  
6 believe the crime lab employees were sworn police  
7 officers, but I'm not absolutely sure about that one.

8 Q. Okay. Were you a member of an employee  
9 organization when you were there at the City and County  
10 of San Francisco as a police officer?

11 A. Yes, I was.

12 Q. What was the name of that organization?

13 A. The POA, the Police Officers Association.

14 Q. Did the POA include both sworn and non-sworn  
15 employees of the City and County of San Francisco?

16 A. You know, I'd really be speculating on that.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: If you don't  
18 remember, just say you don't remember.

19 THE WITNESS: Yeah. I don't remember. I don't  
20 remember. I wasn't involved in the union then as I am  
21 now being a Director, or really any particular position  
22 within the union. So my knowledge would be limited.

23 BY MR. ROSE:

24 Q. And you've been a Director for two years, you  
25 say, correct?

1 A. Nearly two years, yes.

2 Q. And by -- with CSLEA for two years?

3 A. With CSLEA.

4 Q. Prior to that what was your involvement with  
5 CSLEA other than as an employee who is represented by  
6 CSLEA?

7 A. Nothing officially. I would attend the  
8 conferences, some of the member outreach meetings, but  
9 nothing official other than my present position.

10 Q. Did you consider yourself, prior to becoming a  
11 Director of CSLEA, to be an actively involved member of  
12 CSLEA?

13 A. Well, I mean it depends how you define actively.  
14 Just what I previously mentioned, going to the member  
15 outreach meetings and attending the conferences. So if  
16 you consider that active, then, yes.

17 Q. How many conferences do you believe you attended  
18 prior to becoming a Director of the CSLEA Board?

19 A. Two or three.

20 Q. And over what span of time did you attend those  
21 conferences?

22 A. About three years.

23 Q. And the same question with respect to meetings,  
24 if you didn't include that in your previous estimate.

25 A. Three to five, I would say.

1 Q. And was that also over a three-year -- two-,  
2 three-year period?

3 A. Little bit longer, yeah. Three to five years.

4 Q. Did -- in attending these meetings did you ever  
5 hear discussion at these meetings about the concept of  
6 having a bargaining unit of State employees consisting  
7 solely of sworn peace officers?

8 A. Did I hear about that concept? Yes.

9 Q. And in what way did you hear about it?

10 A. Just speaking of -- well, thinking back now,  
11 there are those that would be interested in a peace  
12 officer only unit, something to that effect.

13 Q. Was that something that was a topic of official  
14 discussion when you attended the conferences?

15 A. I don't -- I don't think so.

16 Q. Was it something that was on the agenda for any  
17 of the meetings that you attended?

18 A. Not that I recall.

19 Q. Was it informal conversation among people  
20 attending these meetings or conferences?

21 A. I believe it was more of that, the informal  
22 conversation.

23 Q. How frequently would you hear those types of  
24 conversations when you attended these meetings and  
25 conferences?

1 A. How frequently? You know, I --

2 Q. Well, let me ask it this way.

3 MR. MESSING: Well, object. He has the right to  
4 answer the question.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Unless you're  
6 withdrawing it.

7 MR. ROSE: I withdraw the question.

8 BY MR. ROSE:

9 Q. Let me ask it this way: Each time you went to a  
10 meeting or conference, did you hear those types of  
11 conversations?

12 A. No.

13 Q. Half the time?

14 A. No.

15 Q. One time?

16 A. Yeah. Between one time and half the time.

17 Q. Okay. And was that recent in time, or remote in  
18 time?

19 A. I don't know what you mean by recent, so I'd say  
20 remote.

21 Q. When was the last time you heard discussion,  
22 other than in connection with your appearance here today,  
23 about the concept of a peace officer only bargaining  
24 unit?

25 A. By whom?

1 Q. Pardon me?

2 A. By whom? I mean --

3 Q. By people within Bargaining Unit 7, your  
4 coworkers.

5 A. By people within Bargaining Unit 7. I would say  
6 within the last 30 days.

7 Q. Okay. Prior to your status as a Director on  
8 CSLEA's Board beginning two years ago, did you have  
9 coworkers contact you regarding workplace situations?

10 A. Prior to my involvement as a Director, no.

11 Q. So when you earlier testified about your  
12 satisfaction with CSLEA's representation and specifically  
13 with Mr. Clark's responsiveness to your inquiries, you're  
14 referring only to the last two years while you've been a  
15 Director, correct?

16 A. Well, that's when I've been -- as long as I've  
17 been actively involved in the Union. I've heard of his  
18 responsiveness in that vein prior to that. I couldn't be  
19 real precise when, but I have heard of that.

20 Q. Okay. But your earlier testimony was about when  
21 you contact Mr. Clark, correct?

22 A. Uh-hmm.

23 Q. And about when you contact him in response to the  
24 inquiries you receive as a Director for CSLEA, correct?

25 A. Uh-hmm.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You got to give  
2 me yeses and noes here.

3 THE WITNESS: Oh. Yes. Yes.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

5 BY MR. ROSE:

6 Q. And your testimony about Mr. Clark's  
7 responsiveness to your inquiries was in connection with  
8 those specific instances, true?

9 A. Yes.

10 Q. So let me ask again. The -- your testimony  
11 earlier about Mr. Clark's responsiveness relates to your  
12 experience for the last two years?

13 A. Yes. And prior to the two years I being a member  
14 of the Union and just hearing about other people's  
15 dealings with the Union, I have heard similar stories  
16 about his responsiveness. Obviously it's third person.

17 Q. Thank you. Now, the affiliate that you are the  
18 President of, C-A-C-I, or do you actually -- I don't want  
19 to insult you and call it CACI unless that's --

20 A. Yeah, CACI's fine. And I'm one of several  
21 Directors on the Board. I'm not the President of that  
22 Board of Directors.

23 Q. Oh, I see. I noted that none of the members of  
24 CACI are non-sworn employees.

25 A. That's my understanding.

1 Q. Are you aware why that is so?

2 A. I'm not sure why that is so?

3 Q. Have you ever considered reorganizing CACI to  
4 include non-sworn employees in -- that work alongside of  
5 Investigators in the State service?

6 A. I have not personally considered that.

7 Q. Has that ever been discussed at Board meetings  
8 you've attended? And by Board meetings I mean CACI Board  
9 meetings.

10 A. I believe it has. Yeah, I believe it has. I've  
11 been to several Board meetings and that could have been  
12 bantered about.

13 Q. When was the last time that you remember that  
14 being bantered about?

15 A. I have no specific recollection of it, so I  
16 couldn't give you a day or even a month.

17 Q. But you're certain that that has been a topic of  
18 discussion at the Board meetings, reorganizing CACI to  
19 include non-sworn employees?

20 A. I believe so.

21 Q. Now, in your Declaration, I'm looking at page  
22 two, and I'm looking at paragraph four, you speak to the  
23 duties you perform as a Detective within the Fraud  
24 Division of the Department of Insurance. Is that a fair  
25 statement?

1 A. Paragraph number four?

2 Q. Yes.

3 A. Starts out, "I, like all Detectives"?

4 Q. Correct.

5 A. Yes.

6 Q. All right. And one of the things you say is  
7 you're authorized to carry a weapon.

8 A. Yes.

9 Q. Do you actually carry one?

10 A. I do carry one.

11 Q. What non-sworn employees do you work with there  
12 in the Fraud Division in the Department of Insurance that  
13 are in Bargaining Unit 7?

14 A. Well, several. We have it's called the  
15 Investigations Division, and they -- the Investigators  
16 and staff are housed within our office, the Benicia  
17 office. There are approximately seven Investigators  
18 assigned to the Benicia office, so we work under the same  
19 roof.

20 Q. Are the seven Investigators in the Benicia office  
21 sworn peace officers?

22 A. They are not. They're not sworn, no. They're  
23 not sworn peace officers, no.

24 Q. So we're talking about Insurance Investigators?

25 A. Yes.

1 Q. How many sworn peace officers are working in the  
2 Benicia office?

3 A. Approximately 25.

4 Q. Including you?

5 A. Yes.

6 Q. Do you ever work with Investigator Assistants?

7 A. I have.

8 Q. Currently?

9 A. No.

10 Q. Are there any Investigator Assistants assigned to  
11 the Benicia office?

12 A. There's not to the Fraud Division, and I don't  
13 believe there is in the Investigations Division either.

14 Q. How frequently in the past have you worked with  
15 Investigator Assistants?

16 A. Very infrequently. It would have been more than  
17 five years ago. And although they were present in the  
18 office, my direct working with them was very limited.

19 Q. Do you consider the duties of job -- the job  
20 duties of Investigator Assistants to be similar or  
21 dissimilar to the job duties that you perform as a  
22 Detective in the Fraud Division?

23 A. Well, somewhat similar in that they used to --  
24 and again, there are no Investigative Assistants  
25 presently assigned to the Benicia office Fraud Division.

1 They would typically work up a case, get background  
2 information on the particular suspect that we're focusing  
3 on, put together the fiscal package, and present it to  
4 us.

5 Q. Now, the Investigators that work in the Benicia  
6 office, do any of them -- are any of them authorized to  
7 carry a weapon?

8 A. I'm sorry. Any of which Investigators.

9 Q. The -- I'm going back to the Insurance  
10 Investigator classification that you do work with  
11 currently.

12 A. Okay.

13 Q. There are seven of them?

14 A. The Investigations Division. There's the Fraud  
15 Division and the Investigations Division. So you're  
16 speaking of the Investigations Division now?

17 Q. Well, you're in the Fraud Division --

18 A. Yes, sir.

19 Q. -- in Benicia, correct?

20 A. Yes.

21 Q. Okay. And when you said seven Investigators in  
22 the Benicia office, is that include both the Fraud and  
23 Investigator Divisions?

24 A. No. That would be the Investigation Division  
25 Investigators, and the 25 would be the Fraud Division.

1 We're actually called Detectives now, not Investigators.

2 Q. Okay. So thanks for clarifying that. So just so  
3 that I fully understand, the 25 sworn employees are in  
4 the Fraud Division?

5 A. Yes.

6 Q. And there are zero in Insurance Investigators in  
7 the Fraud Division?

8 A. Yes. Insurance Investigators, it's the  
9 Investigations Division in the Department of Insurance.  
10 So, no.

11 Q. Okay. So the division that you're assigned to  
12 doesn't have any Insurance Investigators?

13 A. Correct.

14 Q. And the Investigations Division at the Benicia  
15 office contains seven Insurance Investigators?

16 A. Yes.

17 Q. And are there --

18 A. Approximately seven.

19 Q. Approximately.

20 A. Yeah.

21 Q. And are there any sworn peace officers in the  
22 Investigations Division at the Benicia office?

23 A. No. But that will be changing is my  
24 understanding.

25 Q. How will it be changing?

1           A. The Investigations Division personnel are going  
2 to be offered the opportunity to become full-fledged  
3 peace officers within the Fraud Division.

4           Q. Why do you -- how do you know that that's  
5 happening?

6           A. There was a policy, general order, I'm not sure  
7 how it would be titled, that was just recently released  
8 from our Deputy Commissioner in Sacramento speaking to  
9 that.

10          Q. Do you understand, based on the information you  
11 received, that those positions will eventually be phased  
12 out and become fully sworn peace officers?

13          A. That's correct, yeah.

14          Q. Is that because there's been an evolution or a  
15 change in the job duties of the Investigative Assistants  
16 over time?

17          A. It's not the Investigative Assistants.

18          Q. Excuse me. The -- I'm sorry.

19          A. It's the Investigations Investigators. I know  
20 it's redundant. The II. It's --

21          Q. I mean to ask you about the Insurance  
22 Investigators.

23          A. Yeah.

24          Q. Not the Investigative Assistants.

25          A. Yes. Somewhat of an evolution of their job

1 duties, but they also work criminal cases, such as Fraud  
2 Division Detectives, in that they're criminal in nature,  
3 in addition to working administrative cases. For  
4 example, they take their criminal cases and present them  
5 to district attorney's offices. They also write search  
6 warrants, such as Fraud Division Detectives. We serve  
7 search warrants together, and again with Investigations  
8 Division personnel. So their work is criminal and  
9 administrative in nature.

10 Q. Well, how soon is this supposed to happen, if you  
11 know?

12 A. I don't know of a time limit, but I think it's --  
13 it will happen -- it will begin to happen in the very  
14 near future, within 90 days.

15 Q. How soon is it anticipated, if you know, that the  
16 Insurance Investigator classification will be fully  
17 phased as -- into a sworn peace officer position?

18 A. Every Investigator in the Investigations Division  
19 will not be compelled to morph over to a Fraud Detective,  
20 because there are older people that are not interested or  
21 willing to go through a peace officer academy to obtain  
22 that peace officer status. So they will be, in effect,  
23 grandfathered into their positions. But Investigators  
24 will be urged to go through the academy, gain that full  
25 peace officer status, and become Fraud Division

1 Detectives.

2 Q. With respect to the Investigator Assistants,  
3 based on your previous experience of working with them  
4 very infrequently, do you know whether they are  
5 authorized to carry a weapon?

6 A. The Investigator Assistants?

7 Q. Correct.

8 A. No, they're not.

9 Q. Do you know whether they write search warrants?

10 A. No, they don't.

11 Q. Do they serve search warrants?

12 A. No.

13 Q. Do they serve arrest warrants?

14 A. No.

15 Q. Do they testify in criminal proceedings?

16 A. That I'm not sure if they have in the past.

17 Q. Do they --

18 A. I don't know.

19 Q. Okay. Do you testify in criminal proceedings?

20 A. I have, yes.

21 Q. Do you ever work with Latent Print Analysts?

22 A. I don't recall working with one.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're not  
24 talking about San Francisco PD. We're talking about with  
25 Insurance.

1 MR. ROSE: Right.

2 THE WITNESS: With Insurance, yeah. No, I -- no, I  
3 don't believe I have. No.

4 BY MR. ROSE:

5 Q. Okay. Do you ever work with -- well, are you  
6 familiar with -- do you -- I mean you can probably  
7 discern from the job title what the job is.

8 A. Sure.

9 Q. But based on your own personal experience, which  
10 is very little, are you familiar with the job duties of  
11 Latent Print Analysts in the State of California?

12 A. I'd be speculating that their job is to  
13 extrapolate fingerprints from crime scenes.

14 Q. Do you ever work with Photo Electronic  
15 Specialists?

16 A. No.

17 Q. Do you ever work with Polygraph Examiners  
18 employed by the State of California?

19 A. I haven't.

20 Q. Do you ever work with Public Safety Dispatchers  
21 employed by the State of California?

22 A. Well, I've spoken with them through the radio,  
23 yes.

24 Q. How frequently do you speak with a Dispatcher  
25 through the radio?

1 A. Oh, not very often. Maybe monthly.

2 Q. And by monthly, you mean once a month?

3 A. Yeah.

4 Q. How long is the exchange of communication between  
5 you and the Public Safety Dispatcher on average when you  
6 speak to them?

7 A. Less than 30 seconds.

8 Q. When you were at the San Francisco Police  
9 Department as a police officer, did you also communicate  
10 with Dispatchers?

11 A. I did.

12 Q. Being on patrol, I would imagine you spoke with  
13 them quite frequently.

14 A. That's true.

15 Q. Daily?

16 A. Usually.

17 Q. And did you speak with them 20 or 30 times a day  
18 at least, would you expect?

19 A. Sure.

20 Q. And do you -- are you aware whether or not the  
21 Dispatchers at the City and County of San Francisco were  
22 in the same -- were in the POA with you?

23 A. Yeah. I don't know.

24 Q. Have you ever worked with a Questioned Document  
25 Examiner in the State of California?

1 A. No.

2 Q. Have you worked with a Senior Photo Electronic  
3 Specialist?

4 A. No.

5 Q. Have you ever worked with a Criminal  
6 Identification Specialist?

7 A. No.

8 Q. Have you ever worked with a Criminal Intelligence  
9 Specialist? And by ever I mean -- here again, these  
10 questions are all relating to as a State employee in  
11 State service.

12 A. Yeah. I don't -- I may have been at roundtable  
13 meetings with one, but I don't recall working with one.

14 Q. When you say roundtable meetings, are you  
15 referring to Union activities?

16 A. No, not Union activities. Often various agencies  
17 have roundtables with representatives, like myself,  
18 people from various agencies, Department of Insurance,  
19 Department of Justice, Department of Motor Vehicles get  
20 together and discuss issues, cases, ongoing, trends,  
21 things like that.

22 Q. Can you -- do you have a specific recollection of  
23 sitting at a roundtable meeting with a Criminal  
24 Intelligence Specialist?

25 A. You know what? As a matter of fact, I do. And

1 it was -- she worked at the Department of Justice. Yes.

2 Q. When was -- who was it?

3 A. The name, Asian, Vong, Hong, something like that.

4 Q. How long ago was that?

5 A. I'd say it's about 45 days ago.

6 Q. And prior to -- well, strike that.

7 How long was that meeting, the roundtable meeting  
8 with the CIS from the Department of Justice?

9 A. Approximately an hour.

10 Q. Have you spoken to her since?

11 A. No.

12 Q. Did you speak to her prior to that meeting?

13 A. No.

14 Q. Have you ever had another roundtable meeting  
15 prior to that meeting 45 days ago with any other Criminal  
16 Intelligence Specialist that comes to mind?

17 A. Prior to?

18 Q. Prior to.

19 A. I'm going to say yes, and probably the same  
20 group. And it was held at the Department of Justice in  
21 San Francisco. I've been to, oh, eight or ten of those  
22 meetings. But that was the first one that I attended in  
23 probably the last, couple three years. So I'm going to  
24 say prior to three years there's probably other ones that  
25 attended there.

1 Q. Do you ever work with Criminalists?

2 A. I would answer in the same way. I mean I don't  
3 work directly daily, often, but I've been exposed to  
4 them, I would say.

5 Q. Based on these roundtable meetings?

6 A. Yes. Yes.

7 Q. Do you ever respond to emergency disasters in the  
8 state for any reason?

9 A. I do not.

10 Q. So you would never have an occasion to work with  
11 an Emergency Services Coordinator from the Office of  
12 Emergency Services?

13 A. No.

14 Q. Or an Emergency Notification Controller from the  
15 Office of Emergency Services?

16 A. No.

17 Q. Do you respond to structure fires or fires of any  
18 kind?

19 A. I do not.

20 Q. How about medical emergencies, do you respond to  
21 those?

22 A. I do not.

23 Q. How about aquatics emergencies like in water  
24 bodies or the ocean?

25 A. No, I don't.

1 Q. Being that you are in the Department of  
2 Insurance, tell me, please, if you've ever worked with an  
3 Insurance Compliance person in the Department of  
4 Insurance. Insurance Compliance. Does that sound  
5 familiar?

6 A. You know, I may have. I may have. And I don't  
7 know the titles of some of these people that I'm  
8 interacting with. And it's more of -- it's not that  
9 we're working on cases together. It's that we share an  
10 office. And I'm not talking about Benicia now. I'm  
11 talking about San Francisco. I had a satellite office in  
12 San Francisco. I would encounter people, chat with them,  
13 what do you do. You know, I don't recall saying, well,  
14 what's your title. So I -- in other words, I may, but  
15 not knowing it.

16 Q. Understood. So you may encounter this person in  
17 the workplace --

18 A. Yes.

19 Q. -- but not know the job title?

20 A. Yes.

21 Q. But this is not a person or a classification of  
22 employees that you are regularly interacting with, other  
23 than sharing office space?

24 A. Yes.

25 Q. Meaning that's a correct statement, what I just

1 said?

2 A. Yes, that's a correct statement.

3 Q. Thank you. Would you like some water, or do you  
4 need a break at all?

5 A. I'm okay. Yeah.

6 Q. All right. I see that you also perform special  
7 duties, or maybe this isn't special, but it seems like it  
8 is, tell me if it is, performing as a computer forensics  
9 technician.

10 A. Yes.

11 Q. Is that unique to you, or is that something that  
12 most Detectives do?

13 A. Some Detectives do. We have a computer forensic  
14 team within the Department of Insurance and it's  
15 comprised of Fraud Detectives and Investigations Division  
16 Investigators. And it's typically used when search  
17 warrants are served on residences, businesses and the  
18 like. And we would identify electronic data storage  
19 devices. Of course, the information we include in the  
20 search warrant to search those devices. And we would  
21 either seize them or image the hard drive at the scene.

22 Q. Are any Investigator Assistants on the computer  
23 forensics team?

24 A. Not Investigative Assistants, no.

25 Q. Other than sworn Detectives and the Insurance

1 Investigators, which we discussed are being transitioned  
2 to sworn peace officers, are there any non-sworn -- other  
3 non-sworn employees on the computer forensics team?

4 A. No, there are not.

5 Q. Okay. I'm looking at your Declaration,  
6 Mr. Palmer, at page four, paragraph twelve. And you  
7 state in your -- paragraph twelve of your Declaration,  
8 "Non-sworn Bargaining Unit 7 Investigators who are  
9 employed in the Investigation Division are qualified to  
10 test for and transfer to the Fraud Division as  
11 Detectives." And then it goes on to describe in detail  
12 people that you've worked with who used to be non-sworn  
13 and who are now sworn.

14 A. Yes.

15 Q. Is that a fair statement of --

16 A. Yes.

17 Q. -- or summary of that paragraph?

18 A. Yes.

19 Q. Now, then, when you say that the non-sworn  
20 Bargaining Unit 7 Investigators employed in the  
21 Investigations Division are qualified to test for and  
22 transfer to Fraud Division, are you referring to the  
23 investigative -- excuse me. Are you referring to the  
24 Insurance Investigators who are currently being  
25 transitioned to peace officer status?

1 A. In that sentence there?

2 Q. Correct.

3 A. Yes.

4 Q. And you're not referring to Investigator  
5 Assistants, correct?

6 A. No, I'm not referring to Investigator Assistants.  
7 No.

8 Q. And none of the employees or the named employees  
9 described in paragraph 12 of your Declaration were  
10 Investigator Assistants?

11 A. Not to my knowledge, no. Not since I've been  
12 working with the Fraud Division.

13 Q. Are you aware whether -- setting aside the  
14 Insurance Investigators who are being transitioned to  
15 sworn status, are you aware of whether any of the non-  
16 sworn employees of Bargaining Unit 7 are given special  
17 preference for positions in the -- as Detectives with the  
18 Department of Insurance?

19 A. Special preference?

20 Q. Hiring preference.

21 MR. MESSING: I'm going to object. I think that's  
22 ambiguous.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I have to agree,  
24 because it can be interpreted as a nefarious meaning as  
25 well.

1 MR. ROSE: Let me rephrase the question.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah.

3 BY MR. ROSE:

4 Q. I don't mean anything underhanded or secretive.  
5 I'm talking about the State civil service hiring  
6 promotional process and its official process to the  
7 extent that you're aware of that.

8 MR. MESSING: I'm still going to object. Are you  
9 talking about preference like veterans points or -- I  
10 mean I haven't --

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let's see --

12 MR. ROSE: Well, I haven't asked the question yet.  
13 You can't object. I haven't finished my question.

14 MR. MESSING: Fair enough.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Oh, well, go  
16 ahead and finish the question. But --

17 MR. MESSING: Finish the question, then I'll object.

18 MR. ROSE: Okay.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: But technically  
20 the word preference, that's -- veterans points is the  
21 only thing I'm familiar with. And I worked for the State  
22 Personnel Board for a long time. But go ahead.

23 BY MR. ROSE:

24 Q. All right. So when you say that these employees  
25 are qualified to test for and transfer, they're on equal

1 footing with any other State employee for those positions  
2 officially?

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Only if you  
4 know.

5 THE WITNESS: Yes. Well, yes. But I mean equal  
6 footing, they -- no, they wouldn't be. Somebody within  
7 another department that has no experience working  
8 insurance fraud investigations would not have the  
9 qualifica -- you know, the experience. So it would be  
10 unequal footing.

11 BY MR. ROSE:

12 Q. I understand that.

13 A. I mean I'm not --

14 Q. They may have more --

15 A. -- trying to split hairs --

16 Q. -- relevant experience.

17 A. -- you know.

18 Q. True?

19 A. True.

20 Q. Because of their experience in that department?

21 A. Within the Department, and the exposure they have  
22 to the particular type of cases that they've worked on.

23 Q. But by the same token, would you agree with me  
24 that perhaps a Detective from the City and County of  
25 San Francisco might have equal or greater relevant

1 experience to that type of position?

2 A. He could. She could.

3 MR. ROSE: Okay. No objection? Nothing further.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

5 MS. TRUONG: Nothing from us.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing.

7 MR. MESSING: Just a couple of quick questions.

8 Actually, just first I'd like the Law Judge to take  
9 notice of the fact that Insurance Compliance Officer is  
10 not in the bargaining unit. Insurance -- I'm sorry.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I have that it  
12 is. I have that Insurance Compliance Officer, Department  
13 of Insurance, is.

14 MR. ROSE: So do we.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I'm taking it  
16 off of this page I got from the Bargaining Unit 7 MOU, so  
17 I don't --

18 MR. MESSING: No. They were amended.

19 MS. MAYHEW: Would you like input from the Employer?

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: What's that?

21 MS. MAYHEW: Would you like any input from the  
22 Employer?

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Absolutely. I  
24 don't --

25 MS. TRUONG: There was a unit modification --

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Oh, I see.

2 MS. TRUONG: -- done since the signing of that MOU,  
3 and those are the classifications as of 2006 when the MOU  
4 was signed. There's about five classifications that went  
5 through a unit mod that are no longer in the bargaining  
6 unit, and those are some of the classes.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, you might  
8 as well give those to me right now. And so --

9 MS. TRUONG: I don't know what the official --

10 MR. CLARK: Associate Insurance Compliance, Insurance  
11 Compliance, and Senior Insurance Compliance.

12 MS. TRUONG: It was that whole series.

13 MR. CLARK: Those three I think --

14 MS. TRUONG: yeah.

15 MR. CLARK: -- were carved out.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. I have  
17 Insurance Compliance Officer is deleted.

18 MR. MESSING: Associate and Senior.

19 MR. CLARK: And the Cal Fire Comm. Ops came in, but  
20 they're probably under the same class.

21 MS. TRUONG: They're in the same class. And then  
22 there's those two other classifications.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Are  
24 these -- this is probably a series specification, I would  
25 imagine. But so those that are within the series

1 specification of Insurance Compliance Officer, which is  
2 going to include Associate, probably Senior, and I guess  
3 just Insurance Compliance Officer.

4 MS. TRUONG: And then there's the Cosmetology  
5 Examiner.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Oh, I see  
7 that.

8 MS. TRUONG: There's one other class, but it's not --

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, why don't  
10 I do this. I mean we have the unit file, and I'll just  
11 make a copy of the agreement, and I'll distribute it to  
12 the parties, make it an exhibit, and flow from there.

13 MR. ROSE: Could we do that after this witness?

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Absolutely.

15 MR. ROSE: So that I have the information.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah.

17 MR. MESSING: But I just thought it was important to  
18 bring that to your attention.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

20 MR. MESSING: Based on the fact that this witness'  
21 testimony about Insurance Compliance Officer.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, I mean it  
23 was more updated information than I had.

24 MR. MESSING: All right.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So I appreciate

1 it.

2 MR. MESSING: Okay. I just have a couple of  
3 questions.

4 REDIRECT EXAMINATION

5 BY MR. MESSING:

6 Q. As a peace officer, do you think it's important  
7 to have access to Dispatchers?

8 A. Yes. Yes.

9 Q. What -- you said that maybe -- I think it was  
10 once a month you current have need for a Dispatcher.  
11 What type of matters would those involve?

12 A. When I'm visiting a suspect's either residence or  
13 place of business in an attempt to conduct a suspect  
14 interview, I would often put myself out, as we call it,  
15 and say I'm going to be at --

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I see.

17 THE WITNESS: -- 123 Eighth Street attempting to  
18 conduct an interview.

19 BY MR. MESSING:

20 Q. And why do you do that?

21 A. To notify them in case I'm not heard from for a  
22 substantial amount of time.

23 Q. So --

24 A. It's an officer safety issue.

25 Q. So would you on a scale rate the importance of

1 the type of issue or matter that you're dealing with as  
2 opposed to the length of the call? In other words, if  
3 you have the length of the call here and the issue -- the  
4 reason why you're using dispatch, how would you rate  
5 those in terms of importance?

6 A. Well, the reason would be of primary and crucial  
7 importance. The duration would be of minimal importance,  
8 or lesser importance.

9 MR. MESSING: I have nothing further.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

11 MR. ROSE: Yes. Just a few more, if you will indulge  
12 me.

13 THE WITNESS: Yeah.

14 RE-CROSS-EXAMINATION

15 BY MR. ROSE:

16 Q. With respect to the contact you have with the  
17 Dispatcher when you put yourself out --

18 A. Uh-hmm.

19 Q. -- you earlier said you do that about once a  
20 month, correct?

21 A. Uh-hmm.

22 Q. And that --

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That's a yes?

24 THE WITNESS: Yes.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

1 BY MR. ROSE:

2 Q. And I -- and you're -- and it's a brief  
3 interaction actually on the radio, correct?

4 A. Yes.

5 Q. What do you do at the conclusion of putting  
6 yourself out? Do you notify the Dispatcher that you've  
7 completed your --

8 A. Typically cleared, you know, cleared from the  
9 123 Eighth Street, or whatever the particular address is.

10 Q. I see. So you'll actually have two contacts with  
11 that Dispatcher?

12 A. Typically two contacts, yes.

13 MR. ROSE: I see. Nothing further.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

15 Ms. Truong?

16 MS. TRUONG: No, nothing.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sir, thank you

18 very much. With that --

19 THE WITNESS: Thank you, sir.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- Exclusive Rep  
21 O is admitted.

22 (Exclusive Representative's Exhibit O received  
23 in evidence.)

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let's go off the  
25 record, and I'll get those documents. Off the record.

1 MS. MAYHEW: Are you going to do the admonition?

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Oh, I'm sorry.

3 Thank you very much. I'm all ready to get those  
4 documents. Stay here just for a second, sir. Detective  
5 Palmer, I'm going to admonish you not to discuss your  
6 testimony with any of the other witnesses in this case.  
7 Do you understand the admonition or have any questions?

8 THE WITNESS: I do, sir.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. With  
10 that, off the record.

11 (Off the record.)

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Back  
13 on the record. Does the Employer have any objection to  
14 me marking this as your exhibit?

15 MS. TRUONG: No.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: The unit mod  
17 order.

18 MS. TRUONG: To mark it as our exhibit, no.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Marking  
20 as the Employer Exhibit 1 what appears to be a Unit  
21 Modification Order, and specifically for SA-UM-770-S.  
22 This document appears to transfer certain classifications  
23 from Bargaining Unit 7 to 1. And appears to be effective  
24 on November 27th, '07.

25 (Employer Exhibit No. 1 marked for

CERTIFICATION AND  
DECLARATION OF TRANSCRIBER

1  
2  
3  
4 I, Leisa M. Miller, a duly designated transcriber of  
5 Vine, McKinnon & Hall, do hereby declare and certify  
6 under penalty of perjury that I have transcribed from a  
7 CD recording the proceedings in the matter of STATE OF  
8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,  
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT  
10 ASSOCIATION, Exclusive Representative, Unfair Practice  
11 Charge No. SA-SV-171-S, which recording was duly recorded  
12 at Sacramento, California on March 11, 2009, and that the  
13 foregoing pages 1 through 294 constitute a true, complete  
14 and accurate transcription of the aforementioned  
15 recording to the best of my ability.

16 Dated this 27th day of March, 2009, at Dixon,  
17 California.

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