

February 26, 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.	)	
	)	
_____	)	

FEBRUARY 26, 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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Administrative Law Judge

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1 witness?

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sir, please be  
3 seated.

4 MR. ROSE: All right.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I need to get  
6 your name.

7 THE WITNESS: James Cline.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

9 THE WITNESS: C-L-I-N-E.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let me look you  
11 up real quick here. Go off the record.

12 (Off the record.)

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

14 We're back on the record. Marking as Petitioner's  
15 Exhibit J, what appears to be a Declaration of James  
16 Cline, C-L-I-N-E.

17 (Petitioner's Exhibit J marked for  
18 identification.)

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And sir, I'm  
20 going to ask you to raise your right hand.

21 (Witness sworn by the Judge.)

22 THE WITNESS: I do.

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

25 THE WITNESS: James Cline. C-L-I-N-E.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Cline, I  
2 have a couple of preliminary questions before I turn it  
3 over to Mr. Rose for whatever mop-up, cleanup he may  
4 have.

5 Before coming here to testify today were you sent any  
6 transcripts of this proceeding?

7 THE WITNESS: No.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So  
9 that answers the second question, whether you reviewed  
10 it. So we'll move on from there. Sir, I'm going to show  
11 you Petitioner's Exhibit J, ask you to look through it,  
12 and then ask you if you can identify that document.

13 THE WITNESS: Yes. It is a Declaration as used for  
14 this hearing.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
16 is that your Declaration, sir?

17 THE WITNESS: It is. Let me verify with my  
18 signature.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So  
20 you've turned to the last page and page 10. Is that your  
21 signature, sir?

22 THE WITNESS: It is my signature.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Did you sign  
24 that on or about the date and place set forth in the  
25 Declaration?

1 THE WITNESS: Yes. January 12th, 2009, in Cathedral  
2 City.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose, any  
4 mop-up or any cleanup?

5 MR. ROSE: Yes, Judge, if you don't mind.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yes.

7 TESTIMONY OF

8 JAMES CLINE,

9 Having been duly and regularly sworn, testified as  
10 follows:

11 DIRECT EXAMINATION

12 BY MR. ROSE:

13 Q. Mr. Cline, did you review your Declaration this  
14 morning prior to testifying?

15 A. I did.

16 Q. Did you detect any errors in the Declaration that  
17 you'd like to correct before we proceed?

18 A. A couple of them, I believe, that could be looked  
19 upon as typographical errors or, in addition to, things  
20 that could be eliminated. Page two, line two, "As a  
21 Special Investigator I I'm a peace officer within the  
22 meaning of Penal Code section 830.38(h)." That is  
23 incorrect.

24 Q. Do you mean paragraph 10 at line 22?

25 A. Yes. I'm sorry.

1 Q. And what should that read?

2 A. The -- actually, that line should be eliminated  
3 as it -- as it continues on to page three, and that is  
4 the correct -- as a peace officer -- as an investigator,  
5 it is not 830.38(h). On number 11, the following one, is  
6 the correct Penal Code section for my particular job  
7 classification.

8 Q. I see. So --

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Fair  
10 enough. Sir, I'm going to give you this blue pen and ask  
11 if you can line that out and then initial and date it.  
12 And you can put today's date, February 26th.

13 All right. Any additional errors?

14 THE WITNESS: I believe on page six under I, as in  
15 Ida, number four.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Where it  
17 says, "I carry additional ammunition"?

18 THE WITNESS: Correct. That should be eliminated as  
19 under my job classification as a Special Investigator I  
20 and also my secondary job classification as a Peace  
21 Officer I, which is an intermittent, permanent  
22 intermittent position, we do not carry firearms and we do  
23 not carry ammunition.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Fair enough.  
25 Sir, you can line that out and initial and date it.

1 All right. Anything additional, sir?

2 THE WITNESS: I believe that's all.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any other  
4 follow-up questions, sir?

5 MR. ROSE: Nothing further.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing.

7 MR. MESSING: Okay.

8 CROSS-EXAMINATION

9 BY MR. MESSING:

10 Q. So, Mr. Cline, beside reviewing the Declaration,  
11 did you review any other documents to prepare for your  
12 testimony?

13 A. No.

14 Q. Okay. Now, as a Special Investigator, you're  
15 employed at DDS?

16 A. Correct. Department of Developmental Services.

17 Q. Okay. And what facility?

18 A. I'm currently assigned to the Canyon Springs  
19 Community Facility in Cathedral City.

20 Q. And how long have you been there?

21 A. Seven -- approximately a little over seven years.

22 Q. Okay.

23 A. But I also do other investigations at other  
24 facilities --

25 Q. Okay.

1 A. -- as assigned.

2 Q. And as a hospital police officer, when you work  
3 that job, is that in overtime assignments?

4 A. Correct.

5 Q. Okay. And where do you perform that -- those  
6 duties?

7 A. At Canyon Springs Community Facility in uniform,  
8 and also at Fairview Developmental Center in Costa Mesa.

9 Q. Okay. And about -- can you give us an average  
10 about how many hours a month or a year that you put in as  
11 a hospital police officer?

12 A. Approximately 60 hours a month.

13 Q. Okay. At that -- at the Canyon Springs Facility,  
14 how many hospital police officers are there?

15 A. Currently three.

16 Q. Okay. And in actuality, the officers are  
17 described as Police Officer I's?

18 A. Peace Officer I, actually.

19 Q. Peace Officer I's.

20 A. Peace Officer I. That is their job  
21 classification.

22 Q. Okay.

23 A. However, they are -- they have been and are  
24 referred to as hospital police.

25 Q. Okay. And what about at Fairview, how many Peace

1 Officer I's are there?

2 A. I believe that approximately -- and I do not have  
3 an actual -- an accurate record, but I believe there's  
4 four officers and one sergeant, one Peace Officer II  
5 position.

6 Q. Is there no Peace Officer II position at Canyon  
7 Springs?

8 A. Not currently. There is an acting. One of the  
9 Peace Officer I is currently an acting Peace Officer II.

10 Q. Okay. And would that be also at the level of a  
11 sergeant, then?

12 A. Correct.

13 Q. Okay. And who does the sergeant report to in  
14 each of these facilities?

15 A. The Commander.

16 Q. And who is the Commander?

17 A. The -- that's kind of hard to say at this point.  
18 We have -- we have --

19 Q. Let me withdraw the question and ask it a  
20 different way. Is the Commander a peace officer?

21 A. Yes.

22 Q. Okay. And does he -- the Commander report to  
23 somebody?

24 A. The Chief of the department.

25 Q. Okay. Is the Chief of the department a peace

1 officer?

2 A. Yes.

3 Q. Okay. And who does the Chief of the department  
4 report to?

5 A. The Director of the Developmental Services.

6 Q. Okay.

7 A. The -- I believe the -- for -- the Director for  
8 the Developmental Centers Section of Department of  
9 Developmental Center [sic].

10 Q. Okay.

11 A. Services.

12 Q. I assume that person is not a peace officer?

13 A. Correct.

14 Q. Okay. Now, I'm going to ask you a few questions  
15 about parts of the Declaration here. You say that as a  
16 Special Investigator I and a Peace Officer I you may be  
17 called upon to enforce the California Vehicle Code.

18 A. Correct.

19 Q. Okay. As a Special Investigator I, approximately  
20 how many times a month do you take action to enforce the  
21 California Vehicle Code?

22 A. I -- there is no average really. When -- if --  
23 when the need arises, if I have to as far -- it would be  
24 more of a backup role for the peace officer on duty.

25 Q. So in a year, how many times in a year?

1 A. In a year, two to three.

2 Q. Okay. And as a Peace Officer I, how many times a  
3 year would you give a citation, let's say, for a Vehicle  
4 Code violation?

5 A. In the -- in the past couple -- in the past year,  
6 I've -- I personally have only issued approximately  
7 three. However, I have the ability to write as many as I  
8 need to if I see a violation that occurs while I'm on  
9 patrol, uniform patrol.

10 Q. Yeah. But it's not a major part of your job?

11 A. As a peace officer -- as a Peace Officer I, it is  
12 a part of the job. It is -- it's the -- it's not greater  
13 than another. It's just a part of that job.

14 Q. Okay. Now, as a Special Investigator I --  
15 actually, let me rephrase that. You've been active in  
16 the POC organization?

17 A. I wouldn't say active, no. This is the -- I was  
18 contacted after filling out some information on an e-mail  
19 that I had received, and I was asked to complete a  
20 Declaration. But that has been the extent of my  
21 involvement up to this point.

22 Q. Okay. Are you aware that there are Special  
23 Investigators for DDS who are non-sworn?

24 A. No.

25 Q. Okay. Are you aware of Special Investigators in

1 the State who are members of bargaining unit eight who  
2 are non-sworn? I mean Unit 7.

3 A. I'm sure there are, but I don't know any  
4 personally. I don't have any personal information on  
5 that.

6 Q. Okay. Now, as a Peace Officer I you -- well, let  
7 me go back for a second.

8 As a Special Investigator I you do not wear a  
9 uniform, correct?

10 A. Correct.

11 Q. As a Peace Officer I you do wear a uniform?

12 A. Correct.

13 Q. Do you get a uniform allowance?

14 A. No.

15 Q. All right. Do you -- you say that you do not  
16 carry ammunition, correct?

17 A. Correct.

18 Q. You don't carry a gun, correct?

19 A. Correct.

20 Q. Okay. Now, you indicate in your Declaration as a  
21 Special Investigator you conduct investigations and you  
22 say you conduct criminal and civil investigations; is  
23 that right?

24 A. Correct.

25 Q. Okay. What percentage of the time are you

1 performing civil investigations as opposed to criminal  
2 investigations? Can you --

3 A. They -- actually, they're both -- they're -- I  
4 would say 90 percent of the time of criminal and, you  
5 know, maybe 10 percent civil or administrative. As  
6 they -- as they usually all start out in a criminal  
7 nature, and then sometimes go into an administrative-type  
8 investigation.

9 Q. Okay. Now, it says you make arrests. About how  
10 many arrests a month do you make?

11 A. I have the ability to make arrests. I have only  
12 made -- in my tenure as working for this department, I've  
13 actually only arrested one actual client, as we call  
14 them. And I currently have a warrant out for a staff  
15 member, and as soon as I find them. So we do not -- I do  
16 not usually make arrests, but we have the ability to if  
17 need be.

18 Q. Okay. And the arrests that you made -- the  
19 arrest that you made and the one that's pending, is that  
20 in the capacity as a Peace Officer I or as a Special  
21 Investigator?

22 A. Special Investigator.

23 Q. Okay. So as a Peace Officer I, you've never made  
24 an arrest?

25 A. No.

1 Q. By no, do you agree with me? Are you agreeing  
2 with me when you say, or are you disagreeing with me?

3 A. That I have not. No, I have not conducted any  
4 arrests. But we have the ability to arrest.

5 Q. Okay. And it says here as a Special Investigator  
6 you take depositions.

7 A. Correct.

8 Q. Okay. Now, can you tell us what your  
9 understanding of a deposition is?

10 A. It's a legal document that they make out that the  
11 despondent [sic] will write and that we -- it's basically  
12 like a statement to us.

13 Q. It's a written statement?

14 A. Correct.

15 Q. Okay. So you don't understand that a deposition  
16 is a proceeding where there's a court reporter --

17 A. Correct.

18 Q. -- and questions and -- let me finish my  
19 question --

20 A. Certainly.

21 Q. -- if I may, sir. And there are questions and  
22 answers that are taken under oath with a -- with usually  
23 lawyers present and a court reporter who records the  
24 statements?

25 A. Right. I do not do that.

1 Q. You do not do that?

2 A. And I -- but I have the -- I have had the ability  
3 if I need -- if I need to, I could have participated in  
4 that. But I do not take that as a general rule. And if  
5 it's in here, then that is -- that is something I  
6 overlooked.

7 Q. So you don't do that?

8 A. No.

9 Q. Okay. It says as a Special Investigator I that  
10 you serve search warrants. About how many search  
11 warrants do you serve a year?

12 A. I personally have not served any, but I have the  
13 ability to.

14 Q. Okay. Okay. I just have to take you back --  
15 yeah. I'm going to ask you to go back. You have the  
16 Declaration in front of you.

17 A. Uh-hmm.

18 Q. Okay. And I want you to look at line 13 on page  
19 6 where it says, "As a Special Investigator I perform the  
20 following duties." Okay? So it doesn't say you have the  
21 ability to perform them. It says you perform them. Do  
22 you want to go back over this list now and tell us what  
23 other ones that we should delete from this list?

24 MR. ROSE: Objection. Argumentative.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, just a

1 little bit of a clarification. I mean perform meaning to  
2 actually perform versus the ability to. Would you --  
3 would you make any further corrections?

4 THE WITNESS: If -- well, I believe that that is  
5 correct, that I -- that I perform them if I have a -- if  
6 I have a need to. I do not -- I have not had a need to  
7 recently, or as a Special Investigator for this  
8 Department. But I can do that.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let me just see  
10 that real quick. I'm going to agree with the witness.  
11 Go ahead, Mr. Messing. Perform versus performed, I  
12 actually agree with this witness and the way it's  
13 characterized.

14 BY MR. MESSING:

15 Q. Well, I'll put it to you this way. Why don't you  
16 tell us which items on this list, regardless of that, you  
17 have never performed.

18 A. As working for this agency, I have never  
19 performed -- again, I take depositions.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You mean you  
21 don't take depositions?

22 THE WITNESS: I do not.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

24 THE WITNESS: I do not.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

1 BY MR. MESSING:

2 Q. Do you perform surveillance?

3 A. I have, yes.

4 Q. Okay. Go ahead.

5 A. I have. In the -- like I said, I personally have  
6 not served a search warrant while working for this  
7 department. But like, again, I have the ability to if --

8 Q. Okay.

9 A. -- if I need to.

10 Q. Slow down for a second, if you may. It says you  
11 write search warrants. I assume that if you don't serve  
12 them you don't write them either?

13 A. I have not had the opportunity at this point.

14 Q. Okay. So I'm asking you to go through this list.  
15 You just passed over that.

16 A. No. Because you're basically asking me -- again,  
17 as the Judge says, I perform these if I have an  
18 opportunity.

19 Q. No. I'm asking you which ones --

20 A. Okay.

21 Q. -- you've actually performed.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: He's clarifying  
23 the question.

24 THE WITNESS: Right.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any you

1 actually --

2 THE WITNESS: And at this point -- and at this point,  
3 while working for this agency, I have not had the  
4 opportunity to write a search warrant, to write an  
5 affidavit in support of a search warrant. But I can do  
6 that.

7 BY MR. MESSING:

8 Q. We understand that you feel that you have the  
9 authority to. I'm asking you which ones you actually  
10 have done. Are there any other ones on this list that  
11 you want to tell us that you have not performed?

12 A. Participate in service of a search warrant  
13 obtained by local, county or federal agents, I have not  
14 had the opportunity to do that.

15 Q. Okay.

16 A. Looks like that would be the extent of it.

17 Q. Okay. So you've performed undercover law  
18 enforcement activity?

19 A. We have, yes.

20 Q. Okay. How about do you have confidential  
21 informants?

22 A. Yes.

23 Q. Okay. Let's go down to this. Do you know what  
24 an expert witness is?

25 A. Yes.

1 Q. Okay. That's somebody who -- do you understand  
2 that that's somebody who goes into court and is qualified  
3 by the judge to testify as an expert in a particular  
4 area?

5 A. Correct.

6 Q. Do you know that?

7 A. Correct.

8 Q. Have you been qualified as an expert witness in  
9 court?

10 A. No.

11 Q. Okay.

12 A. Not for this department, no.

13 Q. Okay. So there's another thing that you might  
14 perform but you don't?

15 A. Correct.

16 Q. Okay. Okay. Now, paragraph 34 says that you  
17 perform the following duties. Now I'm going to ask you  
18 to go down this list starting with A and going down to DD  
19 and tell us which of these duties you actually have not  
20 performed.

21 A. Are you referring to page seven?

22 Q. Seven to the -- almost to the bottom of page  
23 eight.

24 A. Okay. Again, on page eight under N, I take  
25 depositions, I have not done that.

1 Q. Did you say you make arrests?

2 A. Correct.

3 Q. Okay. Go ahead.

4 A. And again, I have not written a search warrant  
5 since I have been here.

6 Q. Wait. Hang on a second. Can we go back for a  
7 moment? You testified just a few minutes ago that you  
8 never made an arrest as a Peace Officer I. Now you're  
9 testifying that you did make an arrest?

10 A. On --

11 Q. I seem to recall that you said you have made one  
12 arrest, and that that was as a --

13 A. Okay. And --

14 Q. -- Special Investigator.

15 A. And I'm sorry. I did not -- I did not see under  
16 Peace Officer I. That was -- I overlooked that as I  
17 was --

18 Q. Okay.

19 A. -- as I was going to the page.

20 Q. Let's start again. As a Peace Officer I, start  
21 on page seven and go down and tell us which of these  
22 duties you have not actually performed.

23 A. Okay. So it would be I've not made any arrests  
24 while in uniform --

25 Q. Okay.

1 A. -- as a Peace Officer I. And I have not taken a  
2 deposition as a Peace Officer I.

3 Q. Okay.

4 A. I have not written a search warrant as a Peace  
5 Officer I.

6 Q. Okay.

7 A. I have not served a search warrant.

8 Q. Okay.

9 A. And through DD, that's it.

10 Q. Okay. You perform surveillances as a Peace  
11 Officer I?

12 A. I have.

13 Q. Okay. Do you write affidavits in support of  
14 search warrants?

15 A. I have not. I have not.

16 Q. You have not?

17 A. No. As a Peace Officer I.

18 Q. Okay. Have you participated in the service of a  
19 search warrant obtained by a local county or federal  
20 agent?

21 A. No. And I believe I said that earlier.

22 Q. Okay.

23 A. But that also falls under a Peace Officer I.

24 Q. Okay. You've testified as an expert witness in  
25 state or federal court as a Peace Officer I?

1 A. No, I have not.

2 Q. Okay. Now, you say your hours of work are  
3 varied. I'm not going to deal with the Peace Officer I.  
4 Well, do you work whole shifts as a Peace Officer I when  
5 you work overtime?

6 A. Sometimes I do, sometimes I don't.

7 Q. Okay. When you work --

8 A. They vary.

9 Q. I'm sorry.

10 A. They vary.

11 Q. When you work a whole shift as a Peace Officer I,  
12 how many hours is that?

13 A. It can be anywhere from eight hours to sixteen  
14 hours.

15 Q. There's a 16-hour shift?

16 A. No. But we can double up, do double shifts.

17 Q. Okay. But the normal shift is eight hours?

18 A. Is eight hours at one facility, and at the  
19 facility at Canyon Springs is actually a twelve-hour  
20 shift. So in that -- in that case I work a twelve-hour  
21 shift.

22 Q. Okay. So the Peace Officer I's who work eight-  
23 hour shifts, they work five days, eight hours a day?  
24 Would you know that?

25 A. At the -- at the facility in Orange County that

1 is the general shift.

2 Q. Okay. And the ones who work 12 hours, is that a  
3 two-week cycle, three on in one week and four on in the  
4 next?

5 A. No. That's usually three twelve-hours, and then  
6 they cover an overtime shift, which makes it -- makes  
7 that an additional twelve-hour shift in a four-day  
8 period.

9 Q. Okay. Now, what is your normal schedule as a --  
10 as an investigator?

11 A. My typical shift is from 0700 to 1730 hours  
12 Monday through Thursday.

13 Q. Okay. Monday through Thursday. Okay. And you  
14 have a half an hour unpaid lunch?

15 A. Correct.

16 Q. Now, it says in your Declaration that as a peace  
17 officer you have separate seniority from other State  
18 employees who are not peace officers; is that right?

19 A. As far as I know I do. Because there is a -- we  
20 do not fall under the same -- we would not fall under the  
21 same seniority as a non-sworn.

22 Q. Okay. And --

23 A. As far as I know.

24 Q. I assume you think that that's a good thing?

25 A. I don't have any opinion on that, because I

1 really don't know, you know, what that -- what that --  
2 how that would work.

3 Q. How about being in a separate promotional system,  
4 do you think that's a good thing?

5 A. I don't have an opinion on that.

6 Q. No opinion. Okay. Now, you state that -- okay.  
7 Wait. Let me go back to this for a minute.

8 Now, in your capacity as a Peace Officer I, you  
9 monitor client and visitor activities on facility  
10 grounds?

11 A. Correct.

12 Q. And within the buildings?

13 A. Correct.

14 Q. And you do that by employing visual inspections?

15 A. Correct.

16 Q. And, I gather, probably using security monitor  
17 screens?

18 A. Not -- just coming into our building itself.

19 Q. Okay. So --

20 A. But there's no other cameras inside that are  
21 functioning.

22 Q. Okay. And are there areas where visitors are not  
23 allowed to enter?

24 A. Yes.

25 Q. Okay. And are there places on the grounds where

1 clients -- clients are the people who are -- that's a  
2 term of art.

3 A. Residents there, correct.

4 Q. Residents there. There are places where the  
5 clients are not permitted to go, correct?

6 A. Correct.

7 Q. Okay. And if they go -- if visitors or clients  
8 go to someplace on the grounds where they're not supposed  
9 to go, that's not necessarily a crime, right?

10 A. Correct.

11 Q. Okay. So when you are monitoring the activities  
12 of visitors and the clients, you know, that's not --  
13 you're looking for criminal activity, but you're also  
14 looking for other issues?

15 A. Policy violations, other issues that are -- that  
16 are covered under the clinical aspect of our facility.

17 Q. Okay. And would you say about 30 percent of your  
18 time as a Peace Officer I is spent monitoring client and  
19 visitor activities?

20 A. I would say it was probably -- that's an accurate  
21 figure.

22 Q. Okay. And you also patrol the buildings and  
23 grounds on a regular basis?

24 A. Depending on the facility, yes. I mean, well, we  
25 do -- at our facility we conduct foot patrols. We don't

1 have a big enough facility at the Canyon Springs  
2 Community Facility to actually patrol the grounds as we  
3 do in the bigger, larger facilities in -- such as  
4 Fairview Developmental Center, which we patrol by marked  
5 police cars.

6 Q. Okay. When you're patrolling the grounds, I  
7 assume that you're also looking for unauthorized  
8 movement?

9 A. Yes.

10 Q. Okay. Breaches of security?

11 A. Yes.

12 Q. And unsafe conditions?

13 A. Yes.

14 Q. Okay. And those categories that I just listed  
15 are not necessarily crimes, correct?

16 A. No. They can be. Unauthorized movement, we  
17 have -- we have people that don't belong there. There is  
18 no trespassing on the property, and so we are watching  
19 out for that. Which is a criminal matter, absolutely.

20 Q. But for the most part, what you're looking for  
21 are things that would be merely breaches of security  
22 that -- or move -- let me rephrase that. Movements that  
23 might be a violation of rules and regulations?

24 A. Rules, regulations and the law.

25 Q. Okay. And that would be the majority of the

1 violations or incidents that you have to respond to,  
2 correct?

3 A. At Canyon Springs that is a more accurate  
4 reflection. However, at the Fairview facility, no. We  
5 have -- we have violations of Vehicle Code. We have  
6 criminal acts that we have to watch out for. Theft from  
7 vehicles. Which we do a short time over in Canyon  
8 Springs, but more so in Orange County as we patrol.

9 Q. Okay. But in performing these functions, you  
10 testified that you've only issued three citations and  
11 made one arrest. So isn't it fair to say that most of  
12 what you're looking at are not -- do not deal with the  
13 enforcement of criminal law?

14 A. No.

15 MR. ROSE: Objection. Asked and answered and  
16 argumentative.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Overruled.

18 THE WITNESS: No, that's not -- that's not correct.

19 BY MR. MESSING:

20 Q. Okay. So you would observe criminal behavior or  
21 conduct that you don't enforce?

22 A. There are -- there are times when -- well, not me  
23 personally. I've worked with other officers who have  
24 actually done the arrests, and I am -- have acted as a  
25 backup role.

1 Q. Okay. But you said you are putting in 60 hours,  
2 what, is that a month?

3 A. That is -- that is separated between the two  
4 facilities.

5 Q. Okay. Sixty hours a month. Would you say that  
6 25 percent of your time is spent patrolling facilities?

7 A. I would say more than that.

8 Q. More than that. Okay.

9 A. Yes, more than 25 percent.

10 Q. So 60 hours a month, more than 25 percent of your  
11 time. Yet, you yourself have only issued 3 citations and  
12 made 1 arrest?

13 A. Correct.

14 Q. Okay. But you --

15 MR. ROSE: Objection. Asked and answered.  
16 Argumentative.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Correct. Let's  
18 get to the next question, which is the next one.

19 BY MR. MESSING:

20 Q. So, but you're saying that you're spending more  
21 time on criminal enforcement than you are on insuring the  
22 security of the facilities in ways that are not criminal?

23 A. I believe -- I believe that goes hand in hand.

24 Q. Okay. Hand in hand.

25 A. Enforcement of criminal procedures on our

1 facility is how I protect and perform my duties and  
2 protect the residents.

3 Q. Okay. How many times have you --

4 A. We have a low -- we have a low crime rate. Okay?  
5 I'm not --

6 Q. There's not a question pending.

7 A. Okay.

8 Q. Sorry. So you have a low crime rate. Okay.  
9 Well, how often do you have to redirect visitors who are  
10 in areas that they're not supposed to be in?

11 A. Very little.

12 Q. Very little?

13 A. Very little. Very little.

14 Q. Okay.

15 A. They generally stay where they're supposed to be.

16 Q. Okay. How often have you had to deal with a  
17 client who has wandered into unauthorized areas?

18 A. It could be on a daily basis. It could be -- it  
19 could be once a week.

20 Q. Okay. A daily basis or once a week. So that's a  
21 lot more than the number of times you have to issue  
22 citations or arrest, correct?

23 A. Again, it depends on what I see. If I see  
24 something that I'm not -- as a peace officer I'm not  
25 obligated to issue a citation every time that I see a

1 traffic violation, for instance. We are authorized to  
2 give warnings.

3 Q. As a Peace Officer I, you also have to be  
4 involved in the development and implementation of  
5 emergency procedures?

6 A. We can be.

7 Q. Okay. Well, do you participate in those?

8 A. Yes.

9 Q. Okay. And that would include probably first aid?

10 A. It could.

11 Q. Have you been involved in the development and  
12 implementation of procedures involving first aid?

13 A. I have been in certain situations where I've  
14 gotten on scene and helped with the medical staff  
15 stabilize a patient until the proper medical personnel  
16 could arise.

17 Q. Okay. How about fire? Are you involved in  
18 procedures involving -- implementation of procedures for  
19 dealing with fire?

20 A. I have.

21 Q. Okay. Bomb threats?

22 A. I personally have not had to deal -- have  
23 actually had a bomb threat since I've been there at that  
24 facility.

25 Q. Civil disasters?

1           A. You could say that there was -- there has been  
2 small incidents of potential disasters.

3           Q. Okay. Would you say that that takes up 10  
4 percent of your time, those areas we just covered?

5           A. In the prevention and monitoring that, yes.

6           Q. Okay. Would it be true to say that -- well, you  
7 do investigate crimes, correct?

8           A. Correct.

9           Q. Okay. Now, would you -- would you -- wouldn't  
10 you say it's -- would it be true to say that maybe only  
11 10 percent of the time you are working as a Peace Officer  
12 I are you investigating crimes such as theft, drug  
13 possession, things of that sort?

14          A. No. No, that's not correct.

15          Q. It's not correct?

16          A. No, it is not correct.

17          Q. So what would be a correct percentage?

18          A. I'd say 90 percent.

19          Q. Ninety percent of the time? Okay.

20          A. Everything that we do is -- could be potentially  
21 a crime, and so we have to investigate it to determine if  
22 a crime has been committed, or if it falls under a policy  
23 or a procedure violation.

24          Q. Wouldn't those be the job functions of a special  
25 investigator?

1 A. No.

2 Q. Oh, okay. So I want to be very clear on this.  
3 You're saying you spend 90 percent of your time  
4 investigating crimes such as theft, drug possession/sale,  
5 assaults, rape, arson, and completing and submitting the  
6 reports to the correct departments?

7 A. Not specifically those crimes in that -- in that  
8 detail. But every time that we are called out to a  
9 residence, and which is usually assaults, which can be  
10 theft, which can be sexual assaults, in those type of  
11 crimes, every time we get called out as a Peace Officer I  
12 to -- we conduct a preliminary investigation, and we  
13 are -- we are investigating a potential criminal vio -- a  
14 criminal act.

15 Q. Okay. Just one last thing on this line. You  
16 have to sometimes coordinate and participate in the  
17 search -- in searches for clients who leave the facility  
18 without authorization, correct?

19 A. Correct.

20 Q. That's not true that it's a crime every time?

21 A. It is not a crime, no.

22 Q. It is not a crime. Okay.

23 A. It is not a crime.

24 Q. What percentage of the time do you spend doing  
25 that?

1           A. that really depends. We don't -- we don't have a  
2 lot that take off too much. But we are always on, if you  
3 want to say, patrolling the grounds, making sure that  
4 they're not walking off. So that's part of -- part of  
5 the duties and part of our patrol.

6           You know, if we get a call to -- that happens maybe  
7 three to five times a month that somebody has walked out  
8 from an area that they're not -- a client that has walked  
9 out from where they're not supposed to be.

10          Q. Okay. How often are you put out on calls during  
11 a shift as opposed to patrolling and monitoring?

12          A. That can -- that can vary from day to day.  
13 Sometimes it's a very busy day and we're out there five,  
14 six times out on -- out on the investigate -- or looking  
15 into different cases, or it could be we could go several  
16 hours without a call.

17          Q. Okay. You said you've been doing this for seven  
18 years. I'm talking about the Peace Officer I job.

19          A. Correct.

20          Q. Has it changed very much over those seven years,  
21 or is it basically the same sort of job that you were  
22 doing seven years ago?

23          A. It remains the same.

24          MR. MESSING: Okay. Well, I'd like to mark for  
25 identification --

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you, sir.  
2 Marking as Exclusive Representative H what appears to be  
3 a Duty Statement specifically for the classification of  
4 Peace Officer I, Developmental Center. Document's two  
5 pages in length. And the second page appears to be the  
6 signature of this witness and the signature of his  
7 supervisor.

8 (Exclusive Representative H marked for  
9 identification.)

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Witness has H  
11 before him. And would you like him to review the  
12 document, sir?

13 BY MR. MESSING:

14 Q. Yeah. Why don't you have a look at that  
15 document?

16 A. Okay.

17 Q. Okay. Now, you testified that the job hasn't  
18 changed in seven years. And you testified that you spent  
19 90 percent of the time investigating crimes such as  
20 theft, et cetera.

21 A. Correct.

22 Q. Now, I'm going to direct your attention on the  
23 first page of this document, where it says essential  
24 functions, and it says, if you go down three brackets, 10  
25 percent, investigate crimes such as theft, drug

1 possession and sale, assault, rape, arson, et cetera.

2 A. Uh-hmm.

3 Q. Now, you testified that you do that 90 percent of  
4 the time.

5 A. Correct.

6 MR. ROSE: Objection.

7 MR. MESSING: Okay.

8 MR. ROSE: Misstates the witness' prior testimony.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I don't think  
10 so. Overruled. Go ahead.

11 BY MR. MESSING:

12 Q. Okay. You want to explain the discrepancy?

13 A. Well, this is a Duty Statement that says this is  
14 what expected. This is not particularly what we do. Any  
15 time that we are called out to conduct an investigation,  
16 which can be 90 percent of the time, we are investigating  
17 crime.

18 Q. That is your signature, by the way, on --

19 A. It is my signature, absolutely.

20 Q. Okay.

21 A. And I -- and I agree that this is what expected  
22 of me, to be 10 percent of my time. That's not  
23 necessarily what I do.

24 Q. First of all, is the volume of criminal  
25 investigation that you perform similar to that of other

1 Peace Officer I's with whom you work?

2 A. Are you talking about as the capacity as Peace  
3 Officer I?

4 Q. Yes.

5 A. Yes.

6 Q. Okay.

7 A. I believe it is.

8 Q. And would you say that this document severely  
9 underestimates the amount of criminal investigation that  
10 you do?

11 A. Well, if -- if all that's expected is 10 percent  
12 of our -- of our time to be to -- yes, absolutely it  
13 is -- it is a gross underestimation.

14 Q. Okay.

15 A. Because every time we get a call to the  
16 residence, it is most likely going to be criminally  
17 related, until we can deem otherwise.

18 Q. Okay. Now, you remember signing this doc when --  
19 receiving and signing this document?

20 A. Yes. Back in '02.

21 Q. Okay. Have you done anything to notify any of  
22 your superiors that this document is not an accurate  
23 reflection of what you do?

24 A. That has not come up.

25 Q. Okay. Can you show me the language in here where

1 it says that this is just what you're expected to do as  
2 opposed to what you actually do? Let me see what you're  
3 relying on.

4 A. Again, this is -- I don't believe there's any  
5 language that specifically says I have to perform 10  
6 percent, or I have to -- I can perform more or less.  
7 Again, this is my interpretation of this document, that  
8 it says that I -- this is the minimum qualifications or  
9 the minimum amount of time that I'm supposed to spend  
10 doing this. And that is just not what I personally do.

11 Q. So where did you get the idea when you signed  
12 this that it was -- that only 10 percent of your time  
13 would be investigating crimes, when in fact you say it's  
14 90 percent? How did you get that impression?

15 A. Again, it's -- I didn't even -- I didn't even  
16 look at that is this is what I'm required to do, or this  
17 is what I'm not required to do. I would never look at a  
18 specific thing and say, okay, I'm only allowed to  
19 investigate crime 10 percent of my time. Okay? That's  
20 not something that I would even question.

21 Q. Well, you testified earlier that you spend 30  
22 percent of your time monitoring client and visitor  
23 activities on --

24 A. It can be an accurate reflection.

25 Q. Wait a minute. Let me finish my question, if I

1 may. And 25 percent patrolling. Now, how could you have  
2 those percentages of the time when in fact you're also  
3 doing -- 90 percent of the time you're investigating  
4 crimes?

5 A. Because we are -- as a peace officer, we are  
6 always doing all of this. We do not break our day down  
7 and specifically say, okay, it's now time for 10 percent,  
8 or it's now time for 30 percent. We do all this  
9 together.

10 Q. Well, if you spend 90 percent of the time  
11 investigating crimes, you also said you spend 10 percent  
12 of your time in actuality participating in the  
13 development and implementation of emergency procedures.

14 A. Which can be -- which can be part of a criminal  
15 act.

16 Q. Developing and implementing procedures is part of  
17 a criminal act?

18 MR. ROSE: Objection.

19 BY MR. MESSING:

20 Q. That's investigating a crime?

21 MR. ROSE: Objection. Argumentative.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

23 BY MR. MESSING:

24 Q. Okay. Do you -- in what way do you consider  
25 developing and implementing emergency procedures the

1 investigation of a crime?

2 A. That particular part, no.

3 Q. Okay.

4 A. It is not investigating crime.

5 Q. In what way do you find -- can you explain  
6 coordinating and participating in searches for clients  
7 who leave the facility without authorization a crime in  
8 light of your prior testimony?

9 A. Because there could be criminal activity that is  
10 being -- that they are -- is happening after they leave  
11 the facility. The act itself of walking away from a  
12 developmental center is not a crime. However, if they  
13 are out in the community and they commit a crime, then it  
14 would be my responsibility to follow up on that crime at  
15 that point.

16 Q. Okay. Let's move on in your Declaration. Now,  
17 you refer on page nine in your Declaration, first of all,  
18 you say that you're represented by California Association  
19 of Criminal Investigators on page nine, line nineteen.

20 A. Uh-hmm.

21 Q. Okay. But -- that's called CACI, right?

22 A. Correct.

23 Q. Okay. CACI does not represent you in filing or  
24 processing grievances, correct?

25 A. No longer. Correct.

1 Q. Okay. Nor does it represent you in negotiations  
2 with the State, correct?

3 A. Correct.

4 Q. And that is -- that is something that I did  
5 overlook. It said we're currently, and I -- when I first  
6 looked at it, I believe it -- I believe it to have said  
7 that I was represented by that organization. But I'm not  
8 currently, that is correct.

9 Q. Now, you said that CSLEA began to assist you in  
10 2005 in a overtime issue.

11 A. Correct.

12 Q. Okay. And this had to do with, you say, not  
13 receiving payment for time and a half for drive time to  
14 your assigned post of duty in Orange County.

15 A. Correct.

16 Q. Okay. Was that in your capacity as a Peace  
17 Officer I?

18 A. That was as an investigator.

19 Q. As an investigator?

20 A. Correct.

21 Q. Okay. You say that a CSLEA attorney working on  
22 your overtime issue failed repeatedly to return your  
23 calls.

24 A. Correct.

25 Q. Okay. Who was that attorney?

1 A. I believe that was Dave De La Riva.

2 Q. You believe?

3 A. No. I know that was Dave De La Riva. He was the  
4 one that I was working with at the -- prior to -- prior  
5 to this.

6 Q. Did he return the call eventually?

7 A. In the beginning when he -- when he was first  
8 working with me, he did. However, after I received  
9 notice that I was being expelled from the union, he quite  
10 returning my phone calls.

11 Q. When you were expelled from the union?

12 A. Correct.

13 Q. Okay. It says here that your issue was never  
14 resolved with the assistance of CSLEA.

15 A. Correct.

16 Q. Okay. Do I take it from that the issue was in  
17 fact resolved, however?

18 A. No, it was not.

19 Q. Not resolved?

20 A. No.

21 Q. Okay. When Dave De La Riva stopped returning  
22 your phone calls, did you make a complaint to CSLEA?

23 A. No.

24 Q. Okay. You didn't ever try to talk to his  
25 super -- did you know that his superior was Kasey Clark?

1 A. I did.

2 Q. Okay. Did you ever give Kasey Clark a call to  
3 discuss it?

4 A. No, I did not.

5 Q. Did you in any way bring it to the attention of  
6 anybody at CSLEA other than Mr. De La Riva?

7 A. No. Because I was told that it would do me no  
8 good because, once I was expelled, I would no longer be  
9 receiving any type of representation from the union.

10 Q. One second. By the way, your expulsion from  
11 CSLEA was based on your activities on behalf of the  
12 Teamsters?

13 A. That's correct.

14 Q. And the Teamsters were trying to decertify CSLEA?

15 A. I believe so.

16 Q. Okay. Okay. Now, in 2007 were you aware of a  
17 settlement of an overtime claim for Peace Officer I's?

18 A. I was.

19 Q. You are. Okay. Do you know what the claim was  
20 about?

21 A. I do not.

22 Q. Okay. Do you know that there was a settlement in  
23 the amount of \$350,000 to settle overtime claims for  
24 Peace Officer I's?

25 A. I did not know the exact amount.

1 Q. Did you know that it was somewhere up there in  
2 the hundreds of thousands of dollars?

3 A. I did not hear --

4 MR. ROSE: Objection. Objection. Assumes facts not  
5 in evidence. Lacks foundation.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: What did you  
7 know about the settlement?

8 THE WITNESS: I heard that there was -- that there  
9 was a settlement, and each officer was going to receive  
10 an amount. But it was never disclosed to me exactly what  
11 amount.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Fair enough.

13 BY MR. MESSING:

14 Q. Did you receive an amount?

15 A. No.

16 Q. And do you know why?

17 A. Do I know why I did not receive it?

18 Q. Why you did not receive an amount.

19 A. I was not a part of that at the time. Because I  
20 was not working as a Peace Officer I during that --  
21 during that time.

22 Q. So you didn't qualify --

23 A. So I did not --

24 Q. -- for the settlement?

25 A. -- didn't qualify for that, correct.

1 MR. MESSING: Thank you. Let's see. Okay. Nothing  
2 further at this time.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

4 MS. TRUONG: We have nothing, your Honor.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

6 MR. ROSE: Yes.

7 REDIRECT EXAMINATION

8 BY MR. ROSE:

9 Q. Mr. Cline, just briefly, how many times in your  
10 career have you been told that you're limited to 10  
11 percent of your time investigating crimes such as theft,  
12 drug possession/sale, assault, rape, arson, et cetera?

13 A. Never.

14 MR. MESSING: Okay. I object. It's leading. How  
15 many times? And it's assuming facts not in evidence.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: How many times  
17 have you been told? Overruled.

18 Have you ever been told, first of all?

19 THE WITNESS: No, I have not.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Next.

21 BY MR. ROSE:

22 Q. Have you ever been criticized in your work  
23 performance for doing too much investigation of crimes?

24 A. No.

25 Q. Do you recall receiving this document, the one

1 that --

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: H.

3 BY MR. ROSE:

4 Q. -- has been marked as Exhibit H and you have in  
5 front of you, the Duty Statement?

6 A. Yes. Now that I look at it, I do remember  
7 signing it back in 2002.

8 Q. Did you provide a copy of this document to CSLEA  
9 at any time?

10 A. No, I did not.

11 Q. Do you know where this document is kept?

12 A. No.

13 Q. Have you ever seen your own personnel file with  
14 the State of California?

15 A. No, I have not.

16 Q. Have you ever authorized anyone from CSLEA to  
17 access your personnel file, sir?

18 A. Absolutely not.

19 Q. Have you ever authorized the Department of  
20 Personnel Administration to provide copies of documents  
21 in your peace officer personnel file to CSLEA?

22 A. Not that I know of, no.

23 Q. When Mr. -- when the supervisor -- well, look at  
24 the page two on Exhibit H. Do you recognize the  
25 signature of the supervisor?

1 A. I do.

2 Q. Who is that?

3 A. Patrick Robertson.

4 Q. Mr. Robertson. Do you remember receiving this  
5 document from Mr. Robertson?

6 A. Not specifically. I mean I'm not -- obviously I  
7 signed it, so I did. But that was -- I don't know if he  
8 specifically gave it to me and then signed it, or if it  
9 was given to me at the -- at the start of my employment.

10 Q. You earlier testified that you participated in  
11 medical situations?

12 A. Correct.

13 Q. And I believe you used the words "to help  
14 stabilize patients"?

15 A. Correct.

16 Q. What kind of medical qualifications do you have?

17 A. I've been trained on first aid and advanced first  
18 aid and CPR through the facility.

19 Q. How many times in the last year have you  
20 participated in stabilization of medical situations?

21 A. Three.

22 Q. And for how long do you participate in those  
23 activities, the duration of time each instance?

24 A. Can be anywhere from one minute to 30 minutes.

25 Q. What do you do to assist in stabilization of

1 those -- in those situations?

2 A. Depending on -- depending on the circumstance, I  
3 could just maintain the ABC's, airway, breathing and  
4 circulation.

5 Q. Anything else?

6 A. No.

7 Q. How many times have you been involved in a fire  
8 situation in the last year?

9 A. The last year? Actually, we conduct routine fire  
10 alarm -- fire -- or fire drills and fire alarms, but we  
11 have not actually -- I've not been actually -- been  
12 involved with any actual fires, structure fires.

13 Q. Have you ever been involved in any actual fires  
14 in your employment with the State of California?

15 A. Yes.

16 Q. How many times?

17 A. Twice.

18 Q. When was the most recent time?

19 A. Maybe a year ago.

20 Q. What was your involvement?

21 A. There was a reported vegetation fire on the  
22 property, and I was the first one to arrive, and I was  
23 able to block off the scene and keep the fire under  
24 control with a fire extinguisher until the fire  
25 department could arrive.

1 Q. What was the earlier occasion?

2 A. I believe that was a -- it was a reported fire  
3 inside of one of the residences, and it turned out to be  
4 a toaster had gone -- went awry.

5 Q. And what did you do in that case?

6 A. And I helped the staff evacuate the clients from  
7 the residence and await the fire -- for the fire  
8 department.

9 Q. You talked -- you testified about your expulsion  
10 from the union after having been involved in activity  
11 regarding a Teamsters attempt to decertify.

12 A. Correct.

13 Q. Why did you -- what was your involvement with the  
14 Teamsters?

15 A. They had -- they had asked me what my concerns  
16 were, why I felt that the current union was not properly  
17 representing me, myself as a peace officer and my group.  
18 And I felt that their -- they just were not giving us the  
19 attention that I believe we should be allowed because of  
20 paying our dues.

21 Q. When did you first develop the belief that you  
22 were not getting the attention you deserved from CSLEA?

23 A. Probably within six months after being employed  
24 as a Peace Officer I.

25 Q. Do you, to your knowledge, have any coworkers

1 that have expressed to them that they share the same view  
2 you do with -- in that respect?

3 A. Yes.

4 Q. How many of your coworkers, if you could estimate  
5 on a percentage basis, feel the same way you do about  
6 CSLEA's representation of you as a peace officer?

7 MR. MESSING: Objection. Vague, ambiguous, lacks  
8 foundation. What coworkers? What's the rel -- you know.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You're talking  
10 about -- you're talking about Fairville [sic] and Canyon  
11 Springs?

12 THE WITNESS: Well, I work at three facilities, so --

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Which one are  
14 you talking about when you're saying this amount?

15 THE WITNESS: I would say all three.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Next  
17 question.

18 MR. MESSING: And -- okay.

19 BY MR. ROSE:

20 Q. With respect to all three of those facilities,  
21 can you give us a fraction or a percentage or some  
22 quantification of the number of coworkers that you've  
23 interacted with that you believe, based on things they've  
24 said to you, share your belief with respect to CSLEA's  
25 adequacy of representation of peace officers?

1 MR. MESSING: Object. Vague, ambiguous, lacking in  
2 foundation. This calls for speculation.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

4 BY MR. ROSE:

5 Q. Have you been told by coworkers at any of the  
6 three facilities that you're working with who are peace  
7 officers that they are also unhappy with CSLEA?

8 A. Yes.

9 Q. How many?

10 A. Six. Five, six. That's not an exact number, but  
11 that's a -- that's a guesstimation.

12 Q. And what are -- what have they told you about why  
13 they're unhappy with CSLEA?

14 MR. MESSING: Object. Lacks foundation. We don't  
15 even have a timeframe. Could have been in 1980. I  
16 mean --

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, we only  
18 have 2002, I believe, but --

19 THE WITNESS: I wasn't there in 1980.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- let's just  
21 say within the last two years.

22 THE WITNESS: Some of the things that they were  
23 telling me, that every -- if they have an issue that  
24 needs representation, it's hard to get a hold of the --  
25 anybody from the union to get back with them. And the

1 biggest thing is if they do get a hold of a  
2 representative from the union, they voice their concerns,  
3 and then there's really nothing done. There's no follow-  
4 up with the -- with the representative. From the  
5 representatives.

6 BY MR. ROSE:

7 Q. Going back to when you were expressing your  
8 concerns to the Teamsters, what were your concerns at  
9 that time about CSLEA?

10 A. That they did not follow up. That they did not  
11 provide, in my -- in my opinion, that they were not  
12 representing our agency. They were not representing us  
13 as a whole because of our size. There is a -- there was  
14 a issue about weapons that we're trying to get on the  
15 table. And even though there has been some action by the  
16 union to help us with that, it was -- it was just  
17 never -- we don't believe that there was due diligence  
18 performed by the union on those issues.

19 Q. What was the issue about weapons?

20 A. Well, we don't currently carry them on duty, and  
21 we believe that we're -- because of some of the  
22 situations that we do -- have gotten involved in, that we  
23 should be able to carry them.

24 Q. Any other issues that caused you to formulate  
25 your belief about CSLEA? Going back to when the

1 Teamsters were asking you about your concerns.

2 A. That one of the -- one of the biggest things is  
3 they had brought up the negotiations for pay, which, in  
4 our opinion, just was not there. There was not  
5 aggressive negotiations done on behalf of, you know, our  
6 agencies. It's like we weren't -- we didn't have a  
7 voice. That was the biggest -- that was one of the  
8 biggest things. We did not have a voice.

9 MR. ROSE: Thank you. Nothing further at this time.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing?

11 MR. MESSING: Yeah, a couple more things. Give me  
12 one second.

13 RE-CROSS-EXAMINATION

14 BY MR. MESSING:

15 Q. One of the things, first of all, the -- to your  
16 recollection, isn't it true the Teamsters did not propose  
17 splitting up the bargaining unit between peace officers  
18 and non-peace officers?

19 A. I don't recall that.

20 Q. So you're agreeing with my statement?

21 A. Pardon?

22 Q. You don't recollect?

23 A. I do not recollect. I do not know the actual of  
24 what they were able to accomplish and what they were not.

25 Q. Okay. You know that they were not attempting to

1 create a unit consisting solely of police officers; isn't  
2 that true?

3 A. Correct. I do know, yes.

4 Q. Okay.

5 A. Let's see here. And you were talking about pay  
6 adjustments. You were aware that from July of 2006 until  
7 the present peace officers and firefighters in the  
8 bargaining unit received approximately 17 percent equity  
9 adjustment?

10 A. I do not know. I did not know the exact number,  
11 no.

12 Q. Okay. But you said that you were complaining  
13 that nothing was happening in terms of doing something  
14 for peace officers.

15 A. I said -- I said that that was not only my  
16 concern, but that was others' concerns. But I did not  
17 get affected by that, those pay raises, personally  
18 because of the way that they were negotiated. They were  
19 not attached to each member. Only the members that were  
20 topped out received the actual pay. Other than that, if  
21 you were not topped out, you didn't any kind of a raise.  
22 You got a step increase, which assists you after years,  
23 but it doesn't assist you right away.

24 Q. Are you a top step --

25 A. No.

1 Q. -- investigator?

2 A. No.

3 Q. Okay. But you will be, correct?

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: If you live long  
5 enough I mean.

6 THE WITNESS: Yeah. Yeah.

7 BY MR. ROSE:

8 Q. Well, what step are you at?

9 A. I believe I'm at probably step three or four.

10 Q. Okay. So --

11 A. I'm not specifically sure. But I know I'm not  
12 topped out because the last three raises, I believe, have  
13 gone as step increases, which has raised the ceiling on  
14 the -- on the steps, which is not a -- you know, I mean  
15 you call it a raise. I don't call it a raise because it  
16 is not something -- I don't see it in my paycheck.

17 Q. Whatever you want to call it, it means that  
18 you're going to see more money in your paycheck as a  
19 result of what CSLEA did?

20 A. Yeah. After a year.

21 Q. Okay. And you'll continue to get five percent  
22 every year --

23 A. Until I top out, correct.

24 Q. -- until you top out?

25 A. Correct.

1 Q. And so the top has been elevated?

2 A. Correct.

3 Q. Okay. All right. And by the way, you were  
4 talking about complaints about folks in the bargaining  
5 unit. Did you hear any complaints about CSEL -- CSLEA  
6 not following up on the overtime case that they  
7 settled --

8 A. I had no --

9 Q. -- for hundreds of thousands --

10 A. I had no interest in -- I had no interest in  
11 that, so I don't know anything. I cannot give an opinion  
12 as far as the overtime.

13 Q. No. You're not listening. Let me repeat the  
14 question. Did you hear anybody complain about CSLEA not  
15 being responsive in that overtime case, which was settled  
16 for hundreds of thousands of dollars?

17 A. Not personally.

18 MR. ROSE: Objection. Lacks foundation. Assumes  
19 facts not in evidence.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let's just say  
21 that was settled. Did you hear any complaints in regards  
22 to that?

23 THE WITNESS: No.

24 MR. MESSING: No.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

1 BY MR. ROSE:

2 Q. Okay. And you're aware that CSLEA has proposed  
3 legislation to arm Peace Officer I's?

4 A. No, I was not --

5 Q. No?

6 A. I was not aware of that, no.

7 Q. Okay. But you were complaining about CSLEA not  
8 doing very much. But yet, you're --

9 A. I haven't -- I haven't been told what they've  
10 done.

11 MR. ROSE: Objection. Argumentative.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

13 BY MR. ROSE:

14 Q. All right. And you are also aware that your  
15 administration vehemently opposes the carrying of guns by  
16 Peace Officer I's?

17 A. Yes.

18 MR. MESSING: Okay. Nothing further.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

20 MS. TRUONG: Just a couple quick questions.

21 CROSS-EXAMINATION

22 BY MS. TRUONG:

23 Q. Back to the carrying of guns, you do not carry  
24 guns on the premises, correct?

25 A. Correct.

1 Q. When you refer to the people that are in this,  
2 you refer -- in Department of -- excuse me, for instance,  
3 at Canyon Springs, you refer to them as clients?

4 A. Correct.

5 Q. Are they -- are they there as -- are these  
6 developmentally disabled persons?

7 A. Yes, they are.

8 Q. Do you also house criminal -- people that have  
9 been convicted of some crime?

10 A. They are civilly committed. Whether they have  
11 committed a crime or not, there are some that have been  
12 convicted. But those have been either suspended, or  
13 they've been -- the charges have been dropped in lieu of  
14 a 6500, which is civil commitment.

15 MS. TRUONG: Okay. Nothing further.

16 MR. ROSE: Nothing.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any objection to  
18 H on behalf of the Exclusive Rep and the Employer? I'm  
19 sorry. I should be saying this to you, sir.

20 MR. MESSING: Yeah. I don't object.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any objection to  
22 H on behalf of the -- before I turn to the Declaration,  
23 then ask these two.

24 MR. ROSE: I object because it's obviously a part of  
25 Mr. Cline's personnel record. He's a peace officer. I

1 don't know how it was obtained. And I object to its  
2 admission into evidence on the grounds that it's a  
3 confidential record of a peace officer personnel file.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any response  
5 from that from either Exclusive Rep or the Employer?

6 MR. MESSING: Yes. My longstanding understanding is  
7 is that Duty Statements are not part of the personnel  
8 record, number one.

9 Number two is, Mr. Rose is not Mr. Cline's client  
10 [sic]. He hasn't asserted a -- Mr. Rose -- Mr. Cline is  
11 not Mr. Rose's client. I hope I got that in the right  
12 order. So Mr. Cline has not asserted an objection to  
13 this. And I don't see that there's anything confidential  
14 about it. I think DPA may want to weigh in on this.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
16 Ms. Truong?

17 MS. TRUONG: It's not a confidential document.

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, in my  
19 mind --

20 MS. TRUONG: It's a general -- it says Canyon Springs  
21 Duty Statement right on the top of it. There's -- it's  
22 not a confidential --

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: H --

24 MS. TRUONG: -- personnel file.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: H is admitted.

1 And this is my reasoning. And I do understand your  
2 concerns. If I can find my log sheet here. But  
3 specifically the idea is if this document didn't have a  
4 signature of James Cline, then it still would be  
5 admitted. If it had Mr. Clark's signature on it, you  
6 know, during that time, it still would be admitted.

7 The issue is what does Canyon Springs think this  
8 witness' duties are. This witness had expectations. And  
9 that's the reason why it's being admitted. So, with  
10 that, H is admitted.

11 (Exclusive Representative H received in  
12 evidence.)

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any objection to  
14 the Declaration, J, on behalf of Exclusive Rep?

15 MR. MESSING: Just the -- well, just one second.  
16 We've asserted on general --

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I mean other  
18 than the objections --

19 MR. MESSING: No -- no --

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- we have.

21 MR. MESSING: No further objection other than the  
22 ones --

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

24 MR. MESSING: -- that we've already asserted.

25 MS. TRUONG: Same global objections.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: With that, J  
2 is --

3 (Petitioner's Exhibit J received in evidence.)

4 MR. ROSE: Judge, could I -- could we excuse the  
5 witness since he's got a one o'clock plane flight?

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yes, sir. Thank  
7 you very much.

8 THE WITNESS: Thank you very much.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: While you're  
10 making outside the door, I'll deal with these two  
11 exhibits. I'm going to -- these two additional exhibits.

12 MR. ROSE: Right.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Just so that you  
14 can tell Mr. Edelen and Mr. Guter that they don't have to  
15 show. So J is --

16 MR. MESSING: while you're doing that, would you --  
17 are we off the record?

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: No.

19 MR. MESSING: Okay.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: But we --

21 MR. MESSING: Can we go off the record for a moment?  
22 I've got an urgent call.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah. Hold on.  
24 Off the record.

25 (Off the record.)

1 CERTIFICATION AND  
2 DECLARATION OF TRANSCRIBER

3 I, Leisa M. Miller, a duly designated transcriber of  
4 Vine, McKinnon & Hall, do hereby declare and certify  
5 under penalty of perjury that I have transcribed from CD  
6 recording the proceedings in the matter of STATE OF  
7 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,  
8 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT  
9 ASSOCIATION, Exclusive Representative, Unfair Practice  
10 Charge No. SA-SV-171-S, and which recording was duly  
11 recorded at Sacramento, California on February 26, 2009,  
12 and that the foregoing pages 1 through 271 constitute a  
13 true, complete and accurate transcription of the  
14 aforementioned recording to the best of my ability.

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16 Dated this 14th day of March, 2009, at Dixon,  
17 California.

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