

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 identification.)

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Any objection on
3 your part, Mr. Rose, to --

4 MR. ROSE: No objection.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: On behalf of
6 Exclusive Rep?

7 MR. MESSING: No, no objection.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: One is admitted.
9 (Employer Exhibit No. 1 received in evidence.)

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We have the
11 Employer's first document.

12 MS. MAYHEW: Thank you. We're on the board.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Just got on the
14 tote board, yeah.

15 All right. We have another witness to my left ready
16 to be sworn in. Sir, ask you to raise your right hand.

17 (Witness sworn by the Judge.)

18 THE WITNESS: I do.

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

21 THE WITNESS: John Miller. M-I-L-L-E-R.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
23 Mr. Miller, I have a couple of preliminary questions for
24 you now that I've -- but first let me mark for the record
25 Exclusive Representative Exhibit P. Appears to be a

1 Declaration of John Miller. And it does have some
2 attachments to it.

3 (Exclusive Representative's Exhibit P marked
4 for identification.)

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Miller,
6 before going -- coming to these proceedings today, have
7 you ever received a copy of any of the transcripts of
8 these proceedings?

9 THE WITNESS: I've not received any copies of
10 transcripts. I did see an article on the website. There
11 were a couple of -- I don't really remember what was in
12 it.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. When
14 you're --

15 THE WITNESS: But it was not a transcript.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: When you're
17 talking about a website, which website are you talking
18 about?

19 THE WITNESS: CSLEA website had an article up, and
20 then it disappeared after a while.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. And then,
22 secondly, do you know who James Cline is?

23 THE WITNESS: I don't think so.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

25 THE WITNESS: I don't recognize the name.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

2 THE WITNESS: Jim Cline. James. No, I don't think
3 so.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. With
5 that, sir, passing to you Exclusive Representative P.
6 And if you can take a look at that and then tell me what
7 it is?

8 THE WITNESS: This is my Declaration that I wrote a
9 while back. And it's -- exhibits attached to it. One's
10 my Curriculum Vitae. Another is the -- there should
11 be -- that's the criminal specifications. And then
12 Exhibit C has -- there's SB 183, our retirement bill.
13 And Exhibit D is SB 23, which was the assault weapons
14 bill from 1999, I believe.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
16 can you turn to your signature page --

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- in that
19 Declaration? And sir, is that signature a copy of your
20 signature?

21 THE WITNESS: Yes, it is.

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

25 THE WITNESS: Yes, I did.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And are the
2 contents of that Declaration true and correct to the best
3 of your knowledge?

4 THE WITNESS: Yes, they are.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
6 Mr. Messing, passing the witness. Any follow-up or
7 remaining questions?

8 MR. MESSING: Yeah, just a -- just a couple.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You might as
10 well keep that with you.

11 THE WITNESS: Okay.

12 TESTIMONY OF

13 JOHN MILLER,

14 Having been duly and regularly sworn, testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. MESSING:

18 Q. Did you review your Declaration before coming
19 here today?

20 A. Yes, I did.

21 Q. Okay. Any corrections that you might want to
22 make, or is it --

23 A. No. It's accurate.

24 Q. Okay. Now, in your Declaration you indicate that
25 you've been with DOJ since 1991. And you've been a Union

1 official in one capacity or another since 1994?

2 A. That's correct.

3 Q. Okay. And in your capacity as an employee of the
4 Department of Justice as a Criminalist, do you have
5 occasion -- well, you indicate in your Declaration you
6 have occasion to work with Special Agents, correct?

7 A. Yes, I do.

8 Q. Okay. Do you have occasions in that -- in that
9 capacity to discuss with Special Agents issues of
10 representation by CAUSE or now CSLEA?

11 A. Oh, yeah.

12 Q. Okay. And in your capacity as -- in your various
13 capacities since 1994 as an official with CAUSE and then
14 CSLEA, did you have occasion to talk to Special Agents
15 about representational issues?

16 A. Yes.

17 Q. Okay. And can you tell us over the period --
18 over this period of time, let's say starting with 1994,
19 what kind of feedback that you've received from Special
20 Agents regarding the representation that has been
21 provided by then CAUSE, now CSLEA?

22 A. Well, I have to say the vast majority of it was
23 positive. There's always unhappy people no matter what
24 you do and whatever group you're dealing with. But for
25 the most part people were happy. Those who had never

1 received services had -- might have had doubts. And then
2 they would get in trouble or need assistance, and then
3 they -- and if I had a chance to follow up with them, it
4 was almost invariably positive. They were very grateful
5 and very pleased at the level of service they received.

6 Q. And do any specific items come to mind where you
7 got positive feedback from Special Agents?

8 A. Well, Al Cardwood.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let me just --

10 THE WITNESS: Excuse me.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That was a
12 published decision. But I just want to say if it's -- if
13 it's the name of a peace officer, what we can do is you
14 can give me the initials of the person. And if at any
15 point in time, Mr. Rose, you need to know that person's
16 initials, we can go off the record, and the Employer, and
17 we can give it, and then we can go from there. Just so
18 that we kind of sanitize the issue. So with that
19 proviso, you just mentioned someone by the name of?

20 THE WITNESS: Al Cardwood.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

22 THE WITNESS: Mr. Cardwood has gotten tremendous
23 service from CAUSE. I haven't had a chance to talk with
24 him yet, but I can't imagine that he would be very
25 displeased at this point based on what's happened.

1 MR. ROSE: Objection.

2 THE WITNESS: Sorry.

3 MR. ROSE: Strike everything after -- beginning with
4 "I can't imagine."

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So you
6 haven't -- you haven't spoke to him?

7 THE WITNESS: I haven't spoken to him since.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So
9 struck.

10 THE WITNESS: However, I did have occasions to speak
11 with Al prior to this, because Al would call me
12 occasionally to talk about other things. I won't go into
13 those specifically. But he was -- I don't know if I can,
14 but he was very pleased --

15 BY MR. MESSING:

16 Q. Well, okay. Yes.

17 A. -- with service.

18 Q. Okay. Any other --

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So
20 did you ever -- you said you haven't spoken to him, but
21 then you said you have spoken to him.

22 THE WITNESS: Since this recent decision I haven't
23 spoken with him.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Okay. I
25 get it.

1 THE WITNESS: My apologies for being unclear.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. All
3 right. So before his decision came out, you spoke to him
4 about whether he was pleased with the level of service
5 provided to him?

6 THE WITNESS: Yes.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And what was his
8 response?

9 THE WITNESS: He is very pleased. He was very
10 pleased at that time.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

12 BY MR. MESSING:

13 Q. Are there any other topics that have come up with
14 Special Agents in the recent past where you've had
15 positive feedback?

16 A. I don't remember specific names. I want to say
17 M.H., but I'm trying to remember if he was a Special
18 Agent. But he was -- he got his job back, essentially,
19 and you couldn't be any happier than he was when that
20 happened for him.

21 Q. Okay. Any other issues come to mind?

22 A. There are so many. I have attended so many
23 membership meetings and annual conferences since 1994,
24 and spoken with so many people, that the stories begin to
25 blur into one another after a while. As I said, the

1 vast -- the overwhelming majority of people who have
2 actually received representation from CAUSE or CSLEA are
3 happy, very happy, very satisfied. There's always the
4 occasional person who is neutral or maybe unhappy, but
5 there's -- you're going to have that in any group.

6 MR. MESSING: Okay. I have nothing further at this
7 time.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
9 We'll pass the witness. Mr. Rose. Do you need to know
10 who M.H. is?

11 MR. ROSE: I don't.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yours.

13 CROSS-EXAMINATION

14 BY MR. ROSE:

15 Q. Mr. Miller, hello again.

16 A. Good morning.

17 Q. Now, then, you -- the affiliate organization of
18 which you're a member is the Association of Criminalists,
19 Department of Justice, or AC-DOJ, correct?

20 A. That's correct.

21 Q. That organization consists exclusively of non-
22 sworn employees of the State of California?

23 A. Yes, it does.

24 Q. Why are there no sworn employees in that
25 affiliate?

1 A. It's not how we were structured. We're the
2 Association of Criminalists, so we were structured to
3 take all the scientific personnel, law enforcement
4 scientific personnel, which includes Questioned Document
5 Examiners, which is a subset of Criminalistics, Latent
6 Print Analysts, which is another subset, and we also got
7 the Photo Electronic folks who do some audio and video
8 work for the cops as part of their duties.

9 Q. I see. That seems like a logical organization
10 for your -- or structure of your organization, yes?

11 A. Yes, it does.

12 Q. Now, as a Criminalist you work -- do you work
13 with Criminal Identification Specialists?

14 A. Not directly.

15 Q. Indirectly?

16 A. Well, everything that happens at DOJ is linked.
17 So, you know, I mean I can follow -- not directly, or
18 maybe not even in a second level. Okay? But they're
19 all -- it's all connected. Because the Special Agents do
20 jobs that maybe the CISes have helped them set up, and we
21 might be a part of that at some point based on what
22 happens.

23 Q. How much direct interaction -- well, you said not
24 directly. But how much indirect interaction do you
25 believe you have with Criminal Identification

1 Specialists?

2 Actually, let me preface this series of questions I'm
3 about to ask you, because you've been involved in CSLEA
4 for quite some time. And I'd like to focus only on your
5 interaction with people not in the Union context, but the
6 in the context of your job duties as a Criminalist.

7 A. Okay.

8 Q. Fair enough?

9 A. That's fair.

10 Q. All right. And then when we change gears, if we
11 do, I'll let you know.

12 A. Okey-doke.

13 Q. All right. So in the context of your job duties
14 as a Criminalist, how much indirect interaction would you
15 estimate you have on a monthly basis with Criminal
16 Identification Specialists?

17 A. Well, indirect?

18 Q. Correct. Well, you said you have no direct.

19 A. Right. No direct. And not even like one level
20 removed is what I'm saying. So I don't have -- I don't
21 ever talk to CISes normally in the course of my business
22 of being a Criminalist. So I would have to say none.

23 Q. How about Criminal Intelligence Specialists?

24 A. Isn't that what you just said?

25 Q. I said Criminal Identification Specialists.

1 A. I'm sorry. Basically the same. And my answer
2 previously about CISEs dealt with Criminal Intelligence
3 Specialists, regarding setting up things that Special
4 Agents might do. Not the Criminal Identification
5 Specialists.

6 Q. Oh, your earlier answer was in reference to
7 Criminal Intelligence --

8 A. Yes. I thought you said Intelligence Specialists.

9 Q. Oh, shoot. I may have. And we'll find out when
10 we get the transcript.

11 A. It doesn't matter. I apologize if I got it
12 wrong.

13 Q. Let's clarify that, then. So your earlier answer
14 was about Criminal Intelligence Specialists. Same
15 question as to Criminal Identification Specialists.

16 A. Right. Very -- no interaction.

17 Q. Do you ever respond to disasters?

18 A. We're all -- potentially under state law we could
19 be asked to respond. OES has authority to ask any State
20 employee to respond in a disaster, including us.

21 Q. Do you work with Emergency Management
22 Coordinators at the --

23 A. Not as a Criminalist, no.

24 Q. Or Emergency Services Coordinators at the Office
25 of Emergency Services?

1 A. No, not as a Criminalist.

2 Q. Or Emergency Notification Controllers?

3 A. And we're still talking about my -- on the job,
4 right? Not as a CSLEA person?

5 Q. That's correct.

6 A. Okay. Absolutely not.

7 Q. You don't respond to fires?

8 A. No.

9 Q. Or medical emergencies?

10 A. No.

11 Q. Do you ever have -- handle evidence that is
12 relating to a fire?

13 A. Yes.

14 Q. In that context do you deal with Firefighters?

15 A. Yes. Deal with Investigators, Arson
16 Investigators, with various fire agencies, including the
17 State Fire Marshal, or the Department of Forestry.

18 Q. But when you --

19 A. Excuse me.

20 Q. Okay. Let me clarify something further. I'm
21 going to be asking you about positions, and I might use a
22 term that sounds generic like Firefighter. And I'm
23 really seeking to understand your experience with
24 Firefighters employed by the State of California.

25 A. Okay.

1 Q. Is that fair?

2 A. Uh-hmm.

3 Q. So with respect -- with that in mind, would you
4 modify your answer at all?

5 A. No. I mentioned the CDF folks at the end, the
6 State Firefighters. And the State Fire Marshal's Office,
7 if they happen to have arson evidence. Any State
8 Firefighter who has arson evidence that needs to be
9 examined, if they're in one of the counties that we work
10 in, they're going to bring the evidence to us.

11 Q. Do you ever get in evidence from the California
12 Highway Patrol's MAIT team?

13 A. MAIT? We get in evidence from the CHP for DUIs,
14 driving under -- 11550, which is drugs, shooting --
15 officer-involved shootings. If MAIT -- that's Major
16 Accident Investigation Team.

17 Q. Right.

18 A. If MAIT would -- if MAIT was -- had something --
19 some kind of officer-involved issue and they needed to
20 know if a headlight was on or off, that's the kind of
21 things that we can determine in the laboratory. So I
22 don't specifically recall MAIT, but definitely we could
23 be involved if they needed a forensic determination of a
24 piece of evidence involved in a major accident.

25 Q. Okay. In general, not with respect to MAIT

1 specifically, but with respect to the California Highway
2 Patrol entirely, how frequently do you process evidence
3 as a Criminalist that's originating from the CHP?

4 A. Constantly.

5 Q. And same question but with respect to California
6 Department of Corrections and Rehabilitation.

7 A. I personally don't do -- it's usually gassing
8 cases. Once in a while it's a homicide. If there's a
9 homicide in the prisons and they need blood work done,
10 the evidence comes to us. Gassing cases, which is where
11 a prisoner is throwing feces or urine or semen on an
12 officer, we have worked on those cases as well. As a
13 matter of fact, we have someone in the lab who
14 specializes in doing gasses cases.

15 Q. Fun job.

16 A. Yeah.

17 Q. What would you estimate the frequency per month
18 on -- that you're performing cases or processing evidence
19 from California -- from CDC?

20 A. Well, me personally, I'm not doing gassing cases.
21 I'm not sure. We have 11 -- 10 field laboratories and 1
22 DNA laboratory. And those 10 field laboratories spread
23 up and down the state constantly deal with those issues
24 if they arise. And a lab in an area that has more
25 prisons or a higher prison population probably has a

1 higher frequency.

2 Q. Do you deal with Latent Prints -- Print Analysts
3 in your job as a Criminalist?

4 A. Yes, I do.

5 Q. How often?

6 A. All the time. Any time we go out to a homicide
7 that we've been called out to, if it's a small agency,
8 doesn't have their own latent print analyst, our Latent
9 Print Analysts show up and process the evidence. They
10 go -- they show up with us at clan labs, clandestine drug
11 laboratories, to process the glassware and the evidence
12 for fingerprints. And they're in my affiliate, so I deal
13 with them all the time.

14 Q. Right. But -- oh, well, as in the Union context?

15 A. No. Union context and on the job constantly.

16 Q. Okay. Photo Electronic Specialists, do you work
17 with them?

18 A. Yes.

19 Q. How often?

20 A. Now, those folks I probably have the least
21 contact with, even though they're members of my
22 affiliate, because they work directly with the Agents.
23 They work setting up planting bugs and doing video
24 surveillance. They end up going to "hot" situations.
25 That's in quotation marks. Such as like the -- if

1 anybody remembers the Good Guys shooting in, I don't
2 know, it was 1991, or whatever it was, they were the ones
3 that put all the bugs and the cameras in there. They had
4 to go in helmets and vests.

5 I mean these guys, they will go into apartments and
6 up on phone poles and hook up surveillance equipment at
7 the behest of the Agents when they're doing an undercover
8 investigation. They usually have an armed Agent with
9 them just in case. So that's kind of the nature of their
10 business.

11 But I personally, as a Criminalist, I don't act with
12 them very much --

13 Q. All right.

14 A. -- on the job.

15 Q. Now, you mentioned the Good Guys. How were you
16 aware that Photo Electronic Specialists were at the Good
17 Guys incident in 1991?

18 A. Because I've talked to them. They told me they
19 were.

20 Q. I see. Now, that group --

21 A. There's only about three of them, three or four
22 of them, in Sacramento.

23 Q. Okay. the Good Guys incident was within the
24 jurisdiction of the Sacramento County Sheriff's
25 Department?

1 A. That's right.

2 Q. And Sheriff John McGinnis was at the Good Guys
3 Incident, correct?

4 A. I don't remember who -- which agencies were
5 there, except that I know that our Photo Electronic guys
6 were there.

7 Q. But Special Agents from the Department of Justice
8 were not there?

9 A. I don't know if they were there or not. I have
10 no idea.

11 Q. So the example you just cited of Photo Electronic
12 Specialists working the Good Guys incident isn't an
13 example of Photo Electronic Specialists working with
14 Special Agents from the Department of Justice?

15 A. That's right. But they do work -- that is their
16 main focus is with Special Agents.

17 Q. But that Good Guys example was an example of
18 Photo Electronic Specialists working with the local law
19 enforcement, first emergency --

20 A. Well, you have to understand that the Department
21 of Justice provides services to local agencies. That's
22 our job. We're supposed -- we're there to help all local
23 agencies. And a lot of Photo Electronic -- there's a lot
24 of agencies that come in and use our photo electronic
25 equipment that aren't with DOJ that aren't Special

1 Agents. So they're dealing with agencies all the time.

2 So they could very easily have been asked by sheriff --

3 MR. ROSE: Move to strike as nonresponsive.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know one
5 way or another?

6 THE WITNESS: I'm sorry. Restate the question,
7 please.

8 BY MR. ROSE:

9 Q. Certainly. Photo Electronic Specialists working
10 at the Good Guys incident in 1991 is not an example of
11 Photo Electronic Specialists working with Special Agents
12 at the Department of Justice?

13 A. I don't know for sure. I don't know if they were
14 there.

15 Q. Thank you.

16 A. As I said earlier.

17 Q. Do you work with Public Safety Dispatchers?

18 A. Not on the job, no.

19 Q. Do you work with Questioned Document Examiners on
20 the job?

21 A. Yes.

22 Q. How often?

23 A. Whenever a case involves some kind of forgery or
24 questioned document issue.

25 Q. Can you give me an estimate of the frequency --

1 A. It's not -- it doesn't happen very often.
2 Because as the work comes in, they have their own piece
3 of the pie, so to speak. So they will get the questioned
4 documents. They will examine them, come to their own
5 determinations, and generate their own reports. It's not
6 like we're working side by side, or working together on
7 that document. They do their thing. We do ours. It
8 could be involved in a case. There could be a complex
9 case. But it's not very often.

10 Q. All right. Now, you get -- you get evidence to
11 process from the Department of Corporations?

12 A. My guess would be Corporations would probably --
13 if they did anything, would be with Questioned Document
14 Examiners. I haven't received personally Corporations
15 evidence.

16 Q. Mr. Miller, I do appreciate the detail, and I
17 know you're trying to be helpful. But if you could just
18 focus on my question, I think we'll get through it much
19 quicker. And so --

20 MR. MESSING: I'm going to object.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I agree with
22 Mr. Rose. I mean I also agree he's trying to be helpful.
23 So -- but we're just talking about --

24 THE WITNESS: Okay.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- your

1 classification.

2 THE WITNESS: All right.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And he's asking
4 in your interrelations with certain classifications.

5 THE WITNESS: Okay.

6 BY MR. ROSE:

7 Q. All right. So going back to the question,
8 because I wasn't sure of the answer, are you frequently
9 getting, if it all, evidence from the Department of
10 Corporations as a Criminalist?

11 A. Not that I'm aware of.

12 Q. So you don't frequently work with Associate
13 Corporations Investigators?

14 A. No.

15 Q. Or Corporations Investigators?

16 A. No.

17 Q. Are you frequently getting evidence from the
18 Department of Toxic Substances Control?

19 A. No.

20 Q. So you don't frequently work with Criminal
21 Investigators from that Department?

22 A. Not that I'm aware of.

23 Q. Do you frequently get evidence, or at all, from
24 the Employment Development Department?

25 A. No.

1 Q. So you don't work with Criminal Investigators
2 from the EDD?

3 A. No.

4 Q. You mentioned that you do have interaction from
5 employees -- with employees at the State Fire Marshal's
6 Office?

7 A. Yes.

8 Q. How frequently would you estimate you interact as
9 a Criminalist with Deputy State Fire Marshals?

10 A. As often as they need evidence examined, and that
11 can vary. It can be once a year. It could be ten times
12 a year. I don't know. It depends on the fires.

13 Q. All right. In the last two years how many times
14 have you actually interacted with the Deputy State Fire
15 Marshal?

16 A. Well, me personally, or Criminalists?

17 Q. You personally.

18 A. Okay. Me personally, none.

19 Q. Do you get evidence from the Contractors State
20 License Board?

21 A. No.

22 Q. So you wouldn't have occasion to interact with
23 enforcement representatives from the CSLB?

24 A. Not that I know of.

25 Q. Do you get evidence from the Department of

1 Housing and Community Development?

2 A. No.

3 Q. So you wouldn't have occasion to work with
4 District Representatives for the Division of Codes and
5 Standards in that Department?

6 A. No.

7 Q. Do you get evidence from the Firefighter Security
8 Officers at Hearst Castle?

9 A. If there was an arson there and they needed it
10 examined, we probably would.

11 Q. Have you ever received evidence from Firefighter
12 Security Officers --

13 A. No.

14 Q. -- at Hearst Castle?

15 A. No.

16 Q. Have you ever worked with a Firefighter Security
17 Officer at Hearst Castle?

18 A. No.

19 Q. Or at any State location?

20 A. No.

21 Q. Do you receive evidence from the Department of
22 Fish and Game?

23 A. Let me see. Let me think. Yes.

24 Q. How frequently do you receive evidence from the
25 Department of Fish and Game?

1 A. It depends. It depends on if they make an
2 arrest. If they do a DUI arrest, we'll get the evidence.

3 Q. All right. But when I ask how frequently, I'm
4 asking you to make an estimate in numbers.

5 A. I can't answer that question.

6 Q. Well, how many times in the last two years have
7 you received evidence?

8 A. You mean personally from Fish and Game Warden?
9 None.

10 Q. So you don't frequently interact with Fish and
11 Game Wardens either, do you?

12 A. Yes, I do, actually.

13 Q. Oh, you do. How frequently do you --

14 A. I train them.

15 Q. I'm sorry. You --

16 A. I train them in how to use handheld breath test
17 devices.

18 Q. And when did you last train a Fish and Game
19 Warden how to use a handheld breath testing device?

20 A. I don't know. It's probably been a while,
21 because I'm just back in the program since the mid '90s.
22 So I haven't trained any since I've been back since May
23 of '07.

24 Q. So --

25 A. But prior to that I trained some. I don't

1 remember -- I can't tell you how many because it was in
2 the mid '90s.

3 Q. So it's been over 10 years since you've done
4 that?

5 A. Yes. I was out of the lab for over 10 years.

6 Q. Other than training Fish and Game Wardens in the
7 use of a breath tester, what other interaction have you
8 had in the last two years with Fish and Game Wardens as a
9 Criminalist?

10 A. As a Criminalist personally, none.

11 Q. Do you receive evidence from the Department of
12 Health Services?

13 A. No, we don't receive evidence from DHS. But we
14 do receive quality control samples.

15 Q. And do you have occasion when receiving the
16 quality control samples to work with Food and Drug
17 Investigators?

18 A. No.

19 Q. Or Food and Drug Program Specialists?

20 A. No.

21 Q. Or Fraud Investigators?

22 A. No.

23 Q. Or Hospital Police Officers?

24 A. No.

25 Q. Do you receive evidence from the Franchise Tax

1 Board?

2 A. No.

3 Q. So you have no occasion to work with
4 Investigation Specialists as a Criminalist?

5 A. No.

6 Q. Or Investigator -- excuse -- strike that.

7 Do you receive evidence from the Alcoholic Beverages
8 Control Board?

9 A. Yes.

10 Q. And in receiving that evidence, do you have
11 occasion to work with Investigator I's or II's from the
12 ABC?

13 A. Yes. Those would be the officers who would
14 receive the report based on our examinations of the
15 evidence.

16 Q. They would be receiving your report?

17 A. That's right.

18 Q. And do they communicate to you as a Criminalist
19 in the course of your work?

20 A. If there's a question that needs to be answered,
21 certainly.

22 Q. How frequently in the last two years have you
23 actually directly communicated with an Investigator I or
24 II from the ABC?

25 A. Me personally, none. Not in the last two years.

1 Q. Do you receive evidence from the California
2 Department of Motor Vehicles?

3 A. DMV? No.

4 Q. So you don't have an occasion to work with
5 Investigators from the DMV?

6 A. Not me personally, no.

7 Q. Do you receive evidence from the California State
8 Lottery?

9 A. No.

10 Q. So you don't have an occasion to work with
11 Lottery Agents?

12 A. No, not me.

13 Q. Do you receive evidence from the California
14 Science Center?

15 A. No.

16 Q. So you don't have -- strike that.

17 Do you receive evidence from the Department of
18 Developmental Services?

19 A. DDS? No.

20 Q. So you don't have occasion to work with PD --
21 excuse me, peace officers at the Developmental Center as
22 a Criminalist?

23 A. Well, you asked me about Hospital Police
24 Officers. They're the same. That's no.

25 Q. How about receiving evidence from Pipeline Safety

1 Engineers at the Office of Emergency Services?

2 A. No.

3 Q. Do you ever work with them?

4 A. No, not personally.

5 Q. Have you ever known any Criminalists to work with
6 a Pipeline Safety Officer?

7 A. Pipeline Safety. Is that Fish and Game or is
8 that OES?

9 Q. That is OES.

10 A. I don't know. Not personally. I have no
11 knowledge of that, no.

12 Q. How about working with Security Officers at the
13 Department of Justice?

14 A. Well, we work -- we deal with them every day.
15 They do our badges. We walk by them. They let us in and
16 out of the building. I don't know what you consider
17 that.

18 Q. Well, that's helpful information. Do they give
19 you evidence?

20 A. If there was a crime committed on the property,
21 yes.

22 Q. Other than checking you for security in and out
23 of the building, what other -- and you seeing them in the
24 workplace, what other interaction do you have with
25 Security Officers there?

1 A. That would be about it.

2 Q. Do you work with -- do you receive evidence from
3 the -- or have you personally received evidence from the
4 California State Fair Police Department?

5 A. Not personally, no.

6 Q. Have you had occasion to work with any of the
7 peace officers for the State Fair?

8 A. As a Criminalist, no.

9 Q. Have you personally received evidence from any
10 State Park peace officer?

11 A. Yes.

12 Q. When was the last time that happened?

13 A. It happens fairly regularly.

14 Q. How frequently over the last two years have you
15 received evidence from the -- from a State Park peace
16 officer?

17 A. Well, how many arrests did they make for DUI at
18 Caswell and Turlock? One a month. Once every two
19 months. So I don't know. Ten, twelve times.

20 Q. In the last --

21 A. I don't know how many cases. In the last two
22 years you said?

23 Q. Yes, sir.

24 A. Ten, twelve, maybe fifteen times. Depends on how
25 many cases they make.

1 Q. And are you including -- are you including Park
2 Rangers and Lifeguards in your estimation?

3 A. Well, if a Lifeguard makes an arrest and it
4 result -- like a DUI arrest, yeah.

5 Q. Okay. So the answer is yes?

6 A. Yes.

7 Q. All right. Do you need some water or do you need
8 a break?

9 A. No. I'm okay.

10 Q. You okay? All right. If you need that, let me
11 know and I'll --

12 A. I'll let you know.

13 Q. -- stop peppering you with questions.

14 All right. Now, I'm looking at your Declaration on
15 page two.

16 A. Okay. Did you need this? We can share.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I don't know how
18 far you can go with that.

19 BY MR. ROSE:

20 Q. And I'm looking at the -- near the bottom of page
21 two at paragraph six.

22 A. Okay.

23 Q. It reads, "As the PAC Chair, I oversaw political
24 contributions and endorsements, and interviewed incumbent
25 and open seat candidates for constitutional offices,

1 State Assembly, and State Senate seats to assess whether
2 or not they should be endorsed or opposed by CSLEA." Are
3 you with me?

4 A. Yes.

5 Q. What is involved in overseeing political
6 contributions as the PAC Chair?

7 A. Oh, boy. You want a whole description?

8 Q. Yes, please.

9 A. It's pretty --

10 Q. Or a summary description, if you don't mind.

11 A. Okay. That'll be a little easier. Look, we
12 are -- our contract is very political and it goes to the
13 Legislature, so we're involved intimately with the
14 Legislature and with the Governor's Office. And because
15 we work for most of the other constitutional, a lot of
16 those offices as well.

17 So as a PAC Chair, my job was to look at the
18 candidates for all those different offices, 120
19 Legislators and 8 constitutional offices, assess whether
20 or not they were friendly or had the same mindset as
21 CSLEA, and set up interviews, which we did every election
22 cycle, and bring those candidates in one at a time over
23 the course of a couple of days and interview them to see
24 how they thought about things, and if they were going to
25 get in the Legislature, and what they were going to do

1 when they got there. So it was a very busy process.

2 And then I also oversaw the giving of contributions
3 to the Legislators and the Constitutional Officers for
4 election purposes. And that's kind of it in a summary.
5 That's pretty much the whole show.

6 Q. Thank you. Now, you also mentioned that you
7 oversaw political endorsements. Is that different than
8 political contributions?

9 A. Well, they're intimately linked. You really
10 don't give money to somebody if you haven't endorsed
11 them.

12 Q. Would you ever endorse someone and not give them
13 money?

14 A. Certainly.

15 Q. Have you done that while you've been the PAC
16 Chair? And I don't mean you personally, but the PAC.

17 A. Yes.

18 Q. How long have you been the PAC Chair?

19 A. I'm not longer the PAC Chair. I stopped in 2004.

20 Q. I see. Are you a member of -- is there a
21 committee of members on the PAC that --

22 A. Yes.

23 Q. Not just the Chair, but several people?

24 A. Right.

25 Q. Are you still on the PAC?

1 A. No.

2 Q. Are you aware of the PAC contributions since
3 you've stopped becoming -- excuse me, since you've
4 stopped --

5 MR. MESSING: I'm going to object to relevance.
6 Request the relevance.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, I --
8 here's my PAC is that as to horse betting, I would agree.
9 But the fact that there is something set up, the fact
10 that it's active, in my mind goes to adequacy of
11 representation. I mean when it gets to red, black, zero,
12 double zero, and where, hoolet [phonetic]. I'm sorry,
13 Mr. Miller.

14 MS. MAYHEW: I got it.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That part I'm
16 going to have an issue with. So, proceed.

17 BY MR. ROSE:

18 Q. Have you followed the dealings of the PAC since
19 you left the chairmanship in 2004?

20 A. As a Board member at the quarterly Board
21 meetings, yes. But not intimately in detail.

22 Q. Now, I notice in paragraph six you don't mention
23 anything about assessing candidates for local offices.

24 Is that a --

25 A. Oh, yeah.

1 Q. -- deliberate omission?

2 A. No, it's not. It's not an omission of any kind.
3 It's -- I should have mentioned it. But we have
4 occasionally endorsed people for local office, yes.

5 Q. How frequently while you were on the PAC as --
6 servicing as PAC Chair did you endorse local office
7 members?

8 A. Well, let's see. We did a few sheriffs. Maybe a
9 couple D.A.s. I'd say just a handful of times. Maybe
10 five or six. I could be wrong. I'd have to go back
11 through the records. But it's certainly not more than
12 ten. But I would say closer to five, probably. Five or
13 six. I don't remember, to be honest with you, the full
14 extent of local endorsements.

15 Q. Is there an advantage to -- in your mind as
16 PAC -- when you were PAC Chair, to making a financial
17 contribution to a sheriff's candidate or a district
18 attorney candidate?

19 A. What do you mean by advantage?

20 Q. Advantage for the members of CSLEA?

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Assoc --

22 THE WITNESS: The reason I'm very -- I'm sorry.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Associational
24 advantage.

25 THE WITNESS: I'm very careful about this because

1 giving money to candidates is tricky business. And you
2 don't want to be perceived as buying votes. So I'm very
3 careful how I answer these questions. So I'm -- you'll
4 forgive me if I ask for clarification. Because I'm not
5 going to -- I don't want to leave any impression that
6 anybody's buying candidates.

7 BY MR. ROSE:

8 Q. Oh, and I don't want to impress upon --

9 A. So when you use the word advantage, I -- can you
10 ask it to me in a question in a more specific fashion?

11 Q. Okay. Sure. I'll substitute the word advantage.

12 A. Okay.

13 Q. Is there any benefit to the membership of CSLEA
14 to make a financial contribution to a sheriff's candidate
15 or a district attorney candidate in your mind?

16 A. Yes.

17 Q. What is the benefit of making such a financial
18 contribution to the members of CSLEA?

19 A. These people often end up running for statewide
20 office, or State office, as an Assemblyman or Senator, or
21 sometimes they even run for constitutional offices. So
22 you establish a relationship with those folks. And when
23 they get to the Capitol, you have a friend in the
24 Capitol, theoretically.

25 Q. Do you recall while you were the Chairman of the

1 PAC what the largest political contribution that was made
2 for any candidate at all, statewide or local?

3 MR. MESSING: I'm going to object. I think we're
4 getting into the Rulat [phonetic] --

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I have to agree.

6 MR. ROSE: Judge, if the relevant -- if there's
7 relevance to the existence of the PAC regarding the
8 appropriate -- the adequacy of representation, I think
9 that there is relevance to the manner in which the PAC is
10 used. And I believe the door has been opened. This was
11 put on a Declaration that was at least reviewed by
12 Mr. Messing's office. And I would ask you that give me a
13 little leeway with respect to some of these questions.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I can't see how
15 I can on that one, though. I mean because just from past
16 history I can see how when Donald Delnovi [phonetic] gave
17 a lot of money to one Governor candidate and did great.
18 I can see how one Bargaining Unit 2 gave a lot of money
19 to Mr. Reardon and didn't do great. I --

20 MR. ROSE: But, Judge, in this case the offer of
21 proof is that there -- we believe, I've been told, that
22 there was \$60,000 spent on a local candidate, which is
23 substantially more than any other candidate for any local
24 office, or probably statewide office, has ever received
25 from this PAC. And that there was a special relationship

1 between Mr. Barcelona and the candidate who received
2 those funds.

3 So to the extent that the PAC is in existence and
4 that speaks to the adequacy of representation, the manner
5 in which member political contributions are used seems to
6 me at least to some degree to be also relevant and
7 probative as to material in this case.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I'm sorry.
9 Mr. Messing, you wanted to respond?

10 MR. MESSING: This has already been ruled on. We're
11 getting into really delving into all of the reasons why
12 candidates might be beneficial or not beneficial. The
13 Rulat analogy is apt because sometimes your political
14 contributions can end up with positive results down the
15 road and sometimes not. And it's really, I'd say, not
16 relevant to the adequacy of representation of CSLEA
17 members. So --

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I just -- I'm
19 sorry. Do I -- any response from the Employer at all?

20 MS. TRUONG: Well, just that I don't believe -- I
21 think this is irrelevant to adequacy of representation.
22 This doesn't go -- the amount of money that PAC decided
23 to give one candidate versus another candidate doesn't
24 show how well CSLEA was representing its members.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, I just

1 think it goes to, in a sense, a strategic -- a certain
2 sort of a strategic PAC issues that the Board just has no
3 authority over. And so, with that, I'm going to sustain
4 the objection. Next question.

5 MR. ROSE: Well, in that case, Judge, I move to
6 strike from paragraph six of this Declaration all of the
7 testimony about the PAC and all the testimony from the
8 record about the existence of the PAC. Because the
9 ruling that you issued concerning the relevancy and
10 admissibility of PAC testimony was made prior to the
11 submission of this Declaration before the Board.

12 And if the Board will not consider a potential
13 transaction involving that PAC that doesn't even pass the
14 straight face test, or allow us to at least get the
15 testimony into the record and determine what weight it
16 may have for your determination, then I would ask that
17 the Board not consider at all that any PAC exists, or
18 that there has ever been any political contribution or
19 endorsement of any candidate by CSLEA, or at least with
20 respect to this witness' testimony here today and in this
21 Declaration.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
23 Mr. Messing, any response?

24 MR. MESSING: Yeah. First of all, there are a couple
25 of lines in this Declaration, not extensive testimony,

1 about the PAC. You've already indicated that a certain
2 level of evidence is appropriate simply to show that
3 there's a PAC, and that it was active and on behalf of
4 members. Getting into the individual decisions is where
5 the ALJ has drawn the line, and we agree with that
6 division, the demarcation line.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
8 Anything final?

9 MS. TRUONG: Just that paragraph or item six just
10 goes to the fact that there is in fact a PAC. It exists.
11 We can't pretend that it doesn't exist. We don't need to
12 get into testimony about dollar amounts, or who was given
13 to what. But it does go -- the fact that there is a PAC
14 does go to the -- that there is -- CSLEA is representing
15 its members. We don't need to get into all the fine
16 detail of dollar amounts. It's irrelevant.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I'm
18 not going to strike six. Next question.

19 BY MR. ROSE:

20 Q. All right. Now, with respect to the existence of
21 PAC, not with respect to any particular candidate, when
22 you left the chairmanship in 2004, how much money was in
23 the PAC?

24 A. I don't remember. I really don't.

25 Q. Can you give us a close approximation? Was it

1 less than \$100?

2 A. Well, no, it wasn't less than \$100. It was a
3 substantial amount of money in there. I just don't
4 remember what. I don't remember if it was half a
5 million, a million. I don't remember. It's been five
6 years. I just have moved on and I'm doing other things.
7 I don't -- it's all in the record. If you want to go
8 check the Secretary of State's website, it's all right
9 there in writing. I don't remember.

10 Q. All right. Fair enough. Moving on. Looking now
11 at page three of your Declaration, paragraph eight. And
12 I'll just summarize, and you'll have the opportunity to
13 tell me --

14 A. Okay.

15 Q. -- if I'm not fairly characterizing this. But
16 essentially you're saying that, in your experience,
17 you've never seen proposed increases or benefits for
18 sworn peace officers within Bargaining Unit 7 rejected by
19 the Union in an attempt to get additional increases or
20 benefits for non-sworn members of Bargaining Unit 7?

21 A. Direct tradeoffs, no.

22 Q. But would you -- would you agree with me that
23 sometimes the interests of non-sworn employees in
24 Bargaining Unit 7 and the interests of sworn employees in
25 Bargaining Unit 7 with respect to wages, hours, terms and

1 conditions of employment are not always directly aligned?

2 A. I would disagree completely. Everybody needs
3 more money. We're all completely aligned in trying to
4 get more money for everybody. That's our job.

5 Q. Okay. Well, then let me ask you if you agree
6 with this statement. That the interests of non-sworn
7 employees in Bargaining Unit 7 and the interests of sworn
8 employees in Bargaining Unit 7 with respect to wages,
9 hours, terms and conditions of employment are always
10 absolutely aligned?

11 MR. MESSING: I'm going to object. Vague and
12 ambiguous and --

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I'm just going
14 to ask you a preface question. Can you answer that
15 question?

16 THE WITNESS: It's very broad.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I'm assuming you
18 understand. Do you understand the question?

19 THE WITNESS: If he -- if esteemed counsel will allow
20 me to explain rather than cutting me off and saying stick
21 to the exact question, I can give you the chapter and
22 verse on it.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

24 THE WITNESS: But that's his question.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Absolutely

1 aligned. I'm asking you can you answer the question.

2 THE WITNESS: Not that particular question.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Next question.

4 BY MR. ROSE:

5 Q. Why can't you answer that question?

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: There you go,
7 sir.

8 BY MR. ROSE:

9 Q. Why can you not answer that?

10 A. Because it's too vague. You said absolutely
11 aligned. There are no absolutes in anything with
12 collective bargaining.

13 Q. Well, is it that you disagree with the premise of
14 the question and that's why you can't answer it?

15 A. I disagree with absolutely aligned, yes.

16 Q. It's too strong of a statement, correct?

17 A. Yeah.

18 Q. Doesn't leave enough possibility for the fact
19 that it's not true, correct?

20 A. It's not even -- it's not even too strong a
21 statement. It's the wrong question. It's just not --

22 Q. Well, I get to ask the questions.

23 A. Right. But what I'm saying is is you're -- it
24 doesn't -- you know, you're asking me what's the sound of
25 one hand clapping. It doesn't -- it doesn't compute.

1 There's no absolute interests that are aligned in
2 collective bargaining for anybody anywhere. Even two
3 peace officers in the same unit, their absolute interests
4 aren't aligned.

5 Q. And so the same is true for sworn employees and
6 non-sworn employees, sometimes their interests are not
7 aligned, correct?

8 A. Yes.

9 Q. And even though you're not intending to deprive
10 the non-sworn or sworn employees of something, you end up
11 potentially doing that by serving one group or the
12 other --

13 A. No.

14 Q. -- sometimes?

15 A. No, no, no.

16 Q. You disagree with that?

17 A. That's right. We don't ever deny our members
18 anything. The State denies our members things.

19 Q. Sometimes don't you have to reach a compromise
20 with the State to achieve something for non-sworn
21 employees that might be perceived as detrimental to sworn
22 employees or by sworn employees?

23 A. Nothing that any non-sworn employee would ever
24 receive is detrimental to a sworn employee, and vice
25 versa. They are not liked. They run on parallel tracks.

1 And it's based on mark conditions and can a state compete
2 for these people. And there's no quid pro -- or zero
3 some tradeoff. If you give one percent more to one, you
4 got to take one percent from the other. There is no
5 direct linkage there.

6 Q. Well --

7 A. So this alignment that you speak of, that's why I
8 can't really answer the term absolutely. It doesn't
9 really apply.

10 Q. Well, I think you disagree with it, right?

11 A. Yeah.

12 MR. MESSING: Object. Argumentative.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, if you
14 specified certain areas of the MOU. I mean because
15 that's what you're thinking of, what's in the scope of
16 bargaining, you know, what is aligned, what's not aligned
17 as regards to certain subject matters. I think that
18 might be maybe a more fruitful ground to plow.

19 MR. ROSE: Well --

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Or you can
21 actually get a more tangible answer.

22 BY MR. ROSE:

23 Q. Well, let me ask you. We had a prior
24 conversation about your earlier appearance about this
25 offer of more pay for sworn employees than non-sworn back

1 when Wilson was Governor of California. Do you remember
2 our discussion about that?

3 A. Well, I thought we focused more on 2003. I don't
4 remember discussing 1999. But if you say we did and it's
5 in the record, I suppose we did.

6 Q. Okay. Well, if you don't remember it, then let
7 me ask you this: More than -- more than a majority of
8 your employees in Bargaining Unit 7 that you represent
9 are non-sworn, correct?

10 A. Yeah. I think it's a little over half, yeah.

11 Q. It's like 60 percent of the employees, true?

12 A. Well, it may be. It wasn't at one time, but it
13 may be now. I don't know.

14 Q. So in order to get a contract ratified, and by
15 contract I mean a Memorandum of Understanding, the
16 contract terms have to be palatable to the non-sworn
17 employees, correct?

18 A. Has to be palatable to 50 percent plus 1.

19 Q. Okay. And that would mean that if they -- and if
20 you negotiate provisions that were substantially greater
21 benefits and wages for peace officers in your bargaining
22 unit, would you agree with me that it's likely that the
23 non-sworn employees of the bargaining unit may have --
24 take umbrage with that and vote no on the contract
25 ratification?

1 A. They could. But the evidence is that we've
2 ratified every contract we've ever come across, ever come
3 to.

4 Q. But it could happen?

5 A. Well, yeah, anything can happen.

6 Q. And have you heard sworn employees in Bargaining
7 Unit 7 make a complaint to you in your status as a -- now
8 we're switching gears from you as a Criminalist back to
9 you as a Union person.

10 A. Okay.

11 Q. In that status have you heard complaints from
12 people that they want a bargaining unit consisting solely
13 of sworn peace officers?

14 A. Okay. Have I heard complaints that they want a
15 peace officer only union? Is that the question?

16 Q. Yes.

17 A. Yeah, I've heard that before.

18 Q. Would you agree with me that more than half of
19 the sworn peace officers in your bargaining unit want
20 such a unit?

21 MR. MESSING: Object. Calls for speculation.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

23 BY MR. ROSE:

24 Q. Well, you told me -- you told us earlier that the
25 vast majority of people that you speak with are happy

1 with CSLEA's representation. Do you remember making that
2 statement?

3 A. Yes, I do.

4 Q. And I suppose, tell me if you mean this, by vast
5 majority you mean substantially more than 50 percent of
6 the membership of Bargaining Unit 7?

7 A. What I mean is --

8 MR. MESSING: Object. Mischaracterizes the witness'
9 testimony.

10 MR. ROSE: I'm asking the question.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let's get the
12 question again.

13 BY MR. ROSE:

14 Q. Would you agree with me that by a vast majority
15 you mean -- are we on cross-examination? I'm just
16 checking.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah, we are.

18 BY MR. ROSE:

19 Q. But by vast majority, would you agree with me you
20 meant to say substantially more than half of Bargaining
21 Unit 7 employees are satisfied?

22 A. No.

23 Q. Okay.

24 A. That's not what I said. What I said was --

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: No, no.

1 THE WITNESS: Sorry.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Next question.

3 BY MR. ROSE:

4 Q. I'm not asking you what you said. I'm asking you
5 would you agree with me.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Let's get
7 the next question.

8 BY MR. ROSE:

9 Q. What did you mean when you say vast majority, and
10 if you could please express that as a percentage, of
11 Bargaining Unit 7 employees?

12 MR. MESSING: Now it's a compound question.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I --

14 MR. ROSE: I'll withdraw the question and rephrase.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

16 BY MR. ROSE:

17 Q. Please tell us, Mr. Miller, what percentage do
18 you estimate of Bargaining Unit 7 employees are satisfied
19 with CSLEA's representation?

20 A. First of all, my statement was in reference to
21 the people that I personally talk to. That's number one.

22 And number two, you want a percentage of those
23 people? Ninety-eight percent.

24 Q. How many -- what percentage of employees in
25 Bargaining Unit 7 would you estimate you actually talk

1 to?

2 A. Maybe 1,000 people, different people, over the
3 course of my time, personally, individually, over the
4 course of my time as being on the Board and being
5 Director of Governmental Affairs.

6 Q. And most of those people you speak to are non-
7 sworn employees, correct?

8 A. No, absolutely not. Spent most of my time
9 dealing with sworn issues.

10 Q. How many employees are in Bargaining Unit 7, if
11 you know?

12 A. Six, seven thousand. Between six and seven
13 thousand.

14 Q. So your earlier testimony about the vast majority
15 of CSLEA members being satisfied with -- is with respect
16 to about one-sixth or one-seventh of that group, true?

17 A. Yeah. I said 98 percent. So if I talk to 1,000
18 people, 980 of them are happy.

19 Q. All right. Now, in the -- in your dealings with
20 sworn employees, not non-sworn, but sworn employees of
21 Bargaining Unit 7, what percentage of those that you've
22 talked to have expressed to you their desire to have a
23 bargaining unit composed solely of peace officers?

24 A. Well, I don't know about percentage. I think
25 it's easier to mention the number. I've maybe talked to,

1 I don't know, personally, when they said it to my face,
2 maybe eight or nine, ten people.

3 Q. Do the non-sworn employees in Bargaining Unit 7
4 receive physical fitness incentives, to your knowledge?

5 A. No.

6 Q. Do the non-sworn employees receive -- in
7 Bargaining Unit 7 receive education incentives?

8 A. No.

9 Q. Do the non-sworn employees in Bargaining Unit 7
10 receive longevity incentives?

11 A. No.

12 Q. And that's different from the sworn employees,
13 true?

14 A. That's correct.

15 Q. Are the non-sworn employees in the same
16 promotional system as sworn employees within Bargaining
17 Unit 7?

18 A. What do you mean by system, if you don't mind me
19 asking?

20 Q. I'll withdraw the question. I'm moving on to
21 page five of your Declaration.

22 A. Uh-hmm.

23 Q. I'm looking at paragraph 15, and in particular
24 almost to the end. In fact, the last statement of -- or
25 excuse me, the last sentence of paragraph 15, which

1 reads, "This assessment resulted in CSLEA" --

2 A. Okay.

3 Q. -- "agreeing to support the placement of some of
4 the non-sworn classes not deserving of safety retirement
5 into other bargaining units (Insurance Policy Officers,
6 Associate Insurance Policy Officers, Barbering and
7 Cosmetology Exam Proctors, Instructors for the Office of
8 Emergency Services; DPA later reconsidered their decision
9 on the OES instructors and allowed them to remain in
10 Unit 7).

11 A. Yes.

12 Q. You with me?

13 A. Yes.

14 Q. Now, were you involved in the assessment of non-
15 sworn classes not deserving of safety retirement?

16 A. Yes, I was.

17 Q. Personally involved?

18 A. Yes.

19 Q. What factors were used to assess whether or not a
20 non-sworn class was deserving of safety retirement?

21 A. Basically, main cut-through was did people go out
22 in the field and interact with public and run certain
23 risks that most of us did. And the groups that were
24 mentioned here in the parens that were excluded,
25 basically, the Insurance Policy Officers and Associate

1 Insurance Policy Officers sat behind desks for basically
2 their entire day.

3 Barber and Cosmetology Exam Proctors simply oversaw
4 exams that were given in barbering and cosmetology.

5 The Instructors for OES were teachers. But DPA later
6 looked at the issue of what they teach and how they
7 interact and the fact that they are OES people and can be
8 called upon in emergency situations, and allowed them to
9 remain in Unit -- in Unit 7.

10 Q. Okay. So the factors you've listed are they go
11 in the field, and for that reason there are certain risks
12 associated with that?

13 A. They go in the field and they have interaction
14 with the public where the public might not be -- whoever
15 they're dealing with might not be really happy with them.
16 It was a risk situation. Sort of a risk factor.

17 Q. Okay. And what other factors were considered?

18 A. That was really the primary factor.

19 Q. Was -- so there wasn't any consideration given to
20 the degree of peace officer powers or similar duties that
21 a -- that a person may have in evaluating whether they
22 were deserving of safety retirement?

23 A. Well, in answering the question about their
24 potential for conflict in the field with the public, that
25 was certainly part of the issue. Because the people that

1 we were talking about for the non-sworn may be ending
2 somebody's livelihood by finding them, or shutting down
3 their business. That gets people very angry, and it can
4 create very dangerous situations. And you'd be surprised
5 at some of the places it can happen. It can happen in a
6 furniture shop. It happened in a sausage factory.

7 Q. All right. Let me ask you this: You're aware,
8 are you not, as your lengthy tenure in CSLEA that School
9 Pupil Transportation Safety Coordinator, Licensing
10 Registration Examiner, Department of Motor Vehicles, are
11 in Bargaining Unit 7?

12 A. The LREs, yes.

13 Q. And -- but also the School Pupil Transportation
14 Safety Coordinator. Is that an LRE, or a subset of an
15 LRE?

16 A. I think it is, but -- well, School Pupil Safety
17 Transportation Coordinator, I always thought that was an
18 AMCO Switches, or Motor Carriers, but I don't -- I don't
19 recall offhand.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know one
21 way or another what they do?

22 THE WITNESS: No. I'm sorry.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Next.

24 THE WITNESS: My apologies.

25 /////

1 BY MR. ROSE:

2 Q. All right. You're aware Measurement and Standard
3 Specialists is in Bargaining Unit 7?

4 A. Yes.

5 Q. Measurement and Standard Specialists go into the
6 field?

7 A. I believe they do. I believe they actually have
8 to go out and examine weights and -- they do weights and
9 measures type work. So, yeah, I believe they do.

10 Q. They go to gas stations, right?

11 A. Yeah. And I believe they also go to -- they
12 may -- they may go to the scales at farm co-ops and so
13 forth and so on, where they weigh loads and so forth and
14 so on. You know, big agricultural loads and stuff.

15 Q. And they determine whether the weight -- the
16 scale is weighing correctly, right?

17 A. Right. And they've come across some pretty --
18 come across -- they're the ones who have occasionally
19 come across a gas station where someone's cheating and
20 changing the numbers so that the money -- or stealing
21 credit cards. I mean they have all kinds of things that
22 they do when they to go the gas stations and so forth.

23 Q. So stealing credit cards is one of the things
24 that they investigate?

25 A. One of the -- with the pumps. With the --

1 messing with the mechanism that is supposed to be
2 inviolable of weights and measures in that pump.

3 Q. Okay. And so it was determined, was it not, that
4 those -- that that involves risk that would be sufficient
5 for a safety retirement?

6 A. Yeah. If someone is willing to commit that kind
7 of crime, who knows what they're willing to do to protect
8 it, or protect themselves, keep from going to prison.

9 Q. And did -- and so the -- to your knowledge, based
10 on your Union activity, do the Measurement Standard
11 Specialists go in and confront the wrongdoer when they
12 are stealing credit cards?

13 A. I really don't know.

14 Q. Or do they go back and contact a peace officer?

15 A. Maybe so. I don't know.

16 Q. When evaluating the -- whether or not a
17 classification was deserving of safety retirement, how
18 was it determined that a field representative for the
19 Board of Funeral Directors and Embalmers was
20 appropriately deserving of safety retirement?

21 A. I don't recall the specific -- the specific
22 discussion on that particular group.

23 Q. What does that classification do?

24 A. That I don't know. I don't remember. There's
25 over 180 different classifications in CAUSE, and I don't

1 remember what that one --

2 Q. You never work with them, do you?

3 A. No.

4 Q. When determining -- the same question as to
5 Bureau of Electricity and Appliance Repair --

6 A. It's Electronics.

7 Q. -- Field Representative.

8 A. Bureau of Electronics and Appliance Repair.

9 Q. You're familiar with them?

10 A. Yes, I am.

11 Q. What do they do?

12 A. They insure that shops that repair electronic
13 appliances, you know, plasma TVs and stuff, aren't
14 ripping people off.

15 Q. How do they insure that?

16 A. You'd have to ask them.

17 Q. Well, I'm --

18 A. They go in the field. They answer complaints.

19 Most of our consumer folks handle public complaints.

20 They have a certain part of their job which is devoted to

21 regular checks or examinations of businesses, and then

22 they also have a consumer complaint side. And they

23 receive these complaints, they have to go out and deal

24 with them. And that usually means going out to a site

25 and looking at what the problem is.

1 Q. Do you -- when evaluating whether a
2 classification was deserving of safety retirement, did
3 you look at Backcountry Trails Camp Supervisor?

4 A. Our Conservationists? Of course.

5 Q. Is a Backcountry Trails Camp Supervisor different
6 than a Conservationist?

7 A. No. That is a Conservationist, I do believe.

8 Q. Okay.

9 A. I think they're in ACE, which is our Association
10 of Conservation Employees.

11 Q. Well, I'm not as familiar with these as you are,
12 and so I have a list showing Backcountry Trails Camp
13 Supervisor as one classification, and then I have
14 Conservationist I in the California Conservation Corps --

15 A. Okay.

16 Q. -- as another classification. Does that sound
17 correct?

18 A. That's probably correct. They're probably both
19 in ACE, the Association of Conservation Employees.

20 Q. Do you know what a Backcountry Trails Camp
21 Supervisor does?

22 A. Any time -- I believe I do. Any time a
23 Conservationist or one of these Supervisors has to go and
24 fix trails or restore trails, they take these kids, these
25 Conservationists, and they take them out and they do the

1 grunt work. They clear the brush. They build the --
2 rebuild the retaining walls, reset stones, or whatever it
3 is. And they're responsible for supervising these kids.

4 Q. I see. Is there a lot of involvement with peace
5 officers in doing what you just described, building the
6 trails?

7 A. That I wouldn't know.

8 Q. And the Conservationists in the California
9 Conservation Corps, is it -- how does that differ, if you
10 know, from the Backcountry Trails Camp Supervisor?

11 A. Well, I do know that the Conservationists fight
12 fires. They sandbag during floods. They risk life and
13 limb.

14 Q. All right. I'm moving on to page six of your
15 Declaration, paragraph seventeen. And you mention in
16 here there's an ongoing battle concerning retroactivity
17 of the retirement for non-sworn employees. Is that a
18 fair summary --

19 A. Uh-hmm.

20 Q. -- of this paragraph?

21 A. Yes.

22 Q. Now, what do you mean when you say there's a
23 battle, that battle is ongoing?

24 A. Well, it's still in the courts. It's still being
25 adjudicated as to whether or not this -- our agreement

1 applies to all of our service, or only from July 1 of
2 2004 forward.

3 Q. And when you say our agreement, you're referring
4 to the agreement for retroactivity of safety retirement?

5 A. I'm referring to the agreement for safety
6 retirement and peace officer retirement, SB 183, yes.

7 Q. But I mean what happened was is that the enhanced
8 retirement was applied retroactively to the sworn
9 officers or sworn employees of Bargaining Unit 7,
10 correct?

11 A. Yes, it was.

12 Q. But not so for non-sworn, correct?

13 A. That's right.

14 Q. And so currently CSLEA is spending resources and
15 time trying to get the non-sworn employees retroactive
16 retirement, enhanced retirement?

17 A. Yes, we are.

18 Q. How long has that battle been ongoing?

19 A. Since July 1 of 2004.

20 Q. And what stage of litigation, if you know, is
21 that battle?

22 A. It's in the end stage. It's going to be appealed
23 to the State Appeals Court, and it should be done -- we
24 should know one way or another by the end of this year.

25 Q. Now, as a Board member on the CSLEA Board are you

1 aware how much money CSLEA has spent on that battle?

2 A. No. I haven't parsed and diced and sliced it,
3 no.

4 Q. Now I'm looking still on page six, moving to
5 paragraph twenty-one, and you speak to the training that
6 Criminalists and Special Agents --

7 A. Uh-hmm.

8 Q. -- attend together. Do you see that?

9 A. Yes.

10 Q. Other than the most recent training you mentioned
11 in your Declaration in 2007, how -- when was the next
12 most recent training?

13 A. I don't know. I was out of the lab for a
14 substantial period of time. So there could have -- there
15 has to be -- there's regular training. I just don't know
16 when it was last offered.

17 Q. When you say there's regular training, what
18 frequency are you trying to describe?

19 A. I don't know. It could be once every two years,
20 once every three years. I don't know. But it's fairly
21 regular. You don't need to do this training every single
22 year necessarily.

23 Q. Is there a requirement that you do this training?

24 A. If we want to have a CIRT team there is, sure.

25 Q. Who requires that?

1 A. Well, the Department thinks it's a good idea,
2 both BFS and the -- you know, the entire Division of Law
3 Enforcement, obviously, all the way up to the A.G., or it
4 wouldn't happen.

5 THE WITNESS: Sorry. Are you still looking?

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: No.

7 BY MR. ROSE:

8 Q. Now, do the -- other than Criminalists and
9 Special Agents, are you aware whether there are any other
10 members of the special response teams?

11 A. No, I don't think so.

12 Q. You are aware and you don't think there are any
13 other members?

14 A. No, no. I don't think there are any other
15 members. This is specifically Criminalists working with
16 Special Agents as far as I know.

17 Q. I see. Okay. Turning to page seven now. You
18 are describing in paragraph twenty-two the shooting --
19 the Ellie Nesler shooting.

20 A. Correct.

21 Q. You were there?

22 A. I responded to the crime scene, yes. Not the day
23 of the shooting.

24 Q. Did -- were there Special Agents from the
25 Department of Justice there?

1 A. There was eventually.

2 Q. Were they there when you were there?

3 A. Yes.

4 Q. How many?

5 A. Phil Yee. One. That's what CIRT teams are.

6 It's usually one Agent and one Criminalist working
7 together.

8 Q. I see. And so was this an example of a -- well,
9 you say that it is an example of a critical incident
10 response team?

11 A. That's correct.

12 Q. All right. Now, other than this example in 1993,
13 have you personally responded to any other such CIRT
14 response as a Special Agent?

15 A. Not me personally, no.

16 Q. How about to 1993, had you responded --

17 A. No. That was the first time. And I wasn't the
18 CIRT. The CIRT was John Yoshida. I went with John
19 Yoshida as part of the Criminalist team that went there
20 to process the crime scene. And John Yoshida had trained
21 with Phil Yee to be a team. And they handled the CIRT
22 responsibilities, whatever those were.

23 Q. Why were you there?

24 A. Well, crime scenes are large and complex things
25 that require a lot of work, and that's a lot of work to

1 throw on one guy or gal, as the case may be.

2 Q. Looking at paragraph 24, you describe that you
3 personally attended the foundational course for
4 investigating clandestine labs, right?

5 A. That's correct.

6 Q. When did you attend that course?

7 A. I don't remember. It's in the '90s. You have to
8 attend it before you can go to clan labs, and so it would
9 have been, I don't know, '91, '92, somewhere in there,
10 '93. I don't know.

11 Q. How many times did you attend that course?

12 A. Well, I went through it once.

13 MR. ROSE: Mr. Miller, you'll be pleased to know that
14 I'm done questioning you for now.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. Ms.
16 Truong?

17 MS. TRUONG: Nothing from us.

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing.

19 MR. MESSING: Yeah, I have a few questions.

20 REDIRECT EXAMINATION

21 BY MR. MESSING:

22 Q. First of all, about how many Criminalists are
23 there?

24 A. There's a little over 200. There's about 250
25 some odd folks that -- I have about 210 members or so out

1 of the 250 or 260 that are possible. Thirty of those are
2 Latent Print Analysts, and the rest -- a couple of Photo
3 Electronics and a few Questioned Documents, and the rest
4 are Criminalists.

5 Q. Okay. You were -- you had some questioning about
6 the Fire Marshal's Office, your interactions with that
7 office. And first of all, I noticed that you answered
8 many questions saying not me personally. So let me ask
9 you this: In the past few years are you aware of
10 situations where other Criminalists have worked with the
11 Fire Marshal's Office on matters?

12 A. Yes.

13 Q. Okay. And are you familiar with Deputy Fire
14 Marshals?

15 A. I've never -- I don't know. I'm not sure if
16 that's the classification, exact classification title or
17 not.

18 Q. How about do you know --

19 A. Deputy State Fire Marshals, I believe --

20 Q. There you go.

21 A. -- is their title.

22 Q. Okay. And do you know what bargaining unit
23 they're in?

24 A. I believe they're in seven.

25 Q. Okay. And what about arson and bomb --

1 A. They're in Unit 7.

2 Q. Okay. And are those the people who work with the
3 Criminalists when there's an issue that's referred to the
4 Fire Marshal's Office?

5 MR. ROSE: Objection. Lacks foundation.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know?

7 THE WITNESS: Yeah.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Overruled.

9 MR. ROSE: Same object -- oh, okay.

10 THE WITNESS: I'm sorry. Restate the question.

11 BY MR. MESSING:

12 Q. Are those the classifications with whom the
13 Criminalists work when -- yeah, when the matter -- when
14 there's a matter involving both agencies?

15 A. Yes. If they have evidence they need examined
16 from a bombing or a fire and they want forensic work, we
17 do it.

18 Q. Okay. By the way, you gave some testimony
19 regarding Questioned Document Examiners. Do you know if
20 they work directly with Special Agents?

21 A. That I don't know.

22 MR. ROSE: Objection. Lacks foundation. Oh, sorry.
23 Withdraw the objection.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, your
25 objection bore fruit, and he said I don't know. Next.

1 BY MR. MESSING:

2 Q. Okay. Now, you talked about your work training
3 Fish and Game Wardens regarding DUIs, and then you were
4 asked in the last two years how many times you've done
5 that. And I believe you said you had not in the last few
6 years; is that --

7 A. Not in the last couple years, yeah.

8 Q. Okay. Are there other Criminalists that --
9 since -- well, when was the last time you think that you
10 trained --

11 A. Well --

12 Q. -- Fish and Game Wardens?

13 A. -- just to clarify a little bit, I train at the
14 academy as well as -- well, I train officers and --

15 MR. ROSE: Objection. Move to strike.

16 Nonresponsive.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

18 BY MR. MESSING:

19 Q. Okay. Are there various ways in which you train
20 Fish and Game Wardens on DUI --

21 A. Yes.

22 Q. Okay. What are those?

23 A. In the laboratory, where I set up training six
24 times a year, and all the local agencies in our service
25 area are told send your new folks to us. I also train at

1 the Ray Simon Academy in Stanislaus County, which is the
2 regional peace officer training academy. So there are
3 candidates that go through there who have jobs at various
4 agencies, including, if they're going to get their POST,
5 possibly Parks and possibly Fish and Game.

6 Q. Okay. So when was the last time that you trained
7 Fish and Game Wardens in each of those?

8 A. Well, I don't know. Not everybody who goes
9 through the academy is necessarily --

10 MR. ROSE: Objection. Move to strike everything
11 after the word "I don't know."

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, I'm
13 going to actually allow it the way -- because I started
14 to hear the way the question's going to be answered. Go
15 ahead, sir.

16 THE WITNESS: Thank you. I can't tell in the
17 academies who's got a job. Only some of them have been
18 assigned, and others are just like a generic candidate
19 going through the academy. So it's possible, but I can't
20 say for sure that, yeah, this guy was a Fish and Game
21 Warden, or that guy was a Park Ranger.

22 BY MR. MESSING:

23 Q. Okay. But --

24 A. But in the laboratory I do train uniformed
25 officers. And I've trained Park Rangers in the last

1 couple of years. Haven't seen any Fish and Game Wardens
2 in the last couple years.

3 Q. Okay. So -- and when was the last time that you
4 taught in the academy?

5 A. I teach probably -- well, there's four sessions.
6 I taught the last two. Or no, last three over the last
7 year.

8 Q. Okay. Okay. And in terms of the work in the
9 laboratory, you indicated that you have not -- is it your
10 indication that you haven't performed that function in
11 the last couple of years?

12 A. In -- which function?

13 MR. ROSE: Objection. Leading.

14 MR. MESSING: In the laboratory.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

16 BY MR. MESSING:

17 Q. When was the last time you did the training in
18 the laboratory?

19 A. Oh, I'm sorry. I do it six times a year. I've
20 done the last -- with one exception I did all of last
21 year.

22 Q. Oh, okay. All right. Now, you testified that
23 there is -- there are certain specialized assignments for
24 Criminalists; is that right?

25 MR. ROSE: Objection. Leading.

1 BY MR. MESSING:

2 Q. Are there specialized assignments for
3 Criminalists?

4 MR. ROSE: Objection. Leading.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That doesn't
6 suggest the answer. Go ahead, sir.

7 THE WITNESS: Yes. Thank you.

8 BY MR. MESSING:

9 Q. Okay. Can you give us some examples of
10 specialized assignments?

11 A. Well, some people are assigned to blood alcohol
12 and breath alcohol. Some people are assigned to --
13 they're on the rotation for crime scene call out for
14 homicides or clan lab, clandestine drug laboratories.
15 Some people are assigned to trace specifically maybe
16 hairs and fibers. Some people in the trace section are
17 assigned to the arson. Any job you can think of that a
18 Criminalist can do, there's usually somebody that is kind
19 of the primary person in the laboratory, or a couple of
20 people. Firearms is another example that are assigned to
21 those areas specifically.

22 Q. Okay. Now, when you testified to a series of
23 questions where you answered that you had not personally
24 worked with particular agencies, do you remember that
25 testimony?

1 A. Yes.

2 Q. Okay. Would your answer have been different to
3 any of those questions if you were asked are there
4 Criminalists who have worked with those agencies?

5 A. Well, maybe. Because I don't know for sure. I
6 mean some of the agencies that Mr. Rose mentioned --
7 probably not EDD. Probably not most of the list. But
8 there's a possibility that some of those people have
9 worked with Questioned Document Examiners or Latent Print
10 Analysts or Criminalists on something. I just can't say
11 for sure.

12 Q. Okay. Well, for example, is CIRT considered a
13 specialized assignment?

14 A. Yeah.

15 Q. Okay. And you testified that in the last few
16 years you have not personally engaged in the CIRT
17 activity; is that right?

18 A. That's correct.

19 Q. Okay. Do you know if there are -- have been CIRT
20 responses that have involved Special Agents and
21 Criminalists in the past few years?

22 A. Not specifically, no.

23 Q. Okay. Are there -- do you know whether there are
24 currently Criminalists assigned to CIRT teams with
25 Special Agents?

1 A. Yeah. There's a couple in our lab.

2 Q. Okay.

3 A. No. Maybe three.

4 Q. Okay.

5 A. Two or three in our lab.

6 Q. All right. And let's see. Just one thing about
7 the PAC testimony. Does -- is one of the activities of
8 the -- well, let me ask you -- strike that.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You're going to
10 draw --

11 MR. MESSING: Strike that.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- an objection
13 on that one.

14 BY MR. MESSING:

15 Q. Do PACs form alliances with other PACs?

16 A. They can, yes.

17 Q. Okay. Can endorsements -- hang on one second.

18 Just one last thing. The safety retirement case you said
19 was going to be decided in the Court of Appeal, can
20 you -- do you know who the last prevailing party was in
21 that battle?

22 A. Yes.

23 Q. And who was that?

24 A. CSLEA.

25 MR. MESSING: Okay. No further questions at this

1 time.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

3 MS. TRUONG: No.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Or I'm sorry.
5 Mr. Rose?

6 MR. ROSE: Nothing.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I got my
8 directional finder. Thank you very much, sir. And I'm
9 going to give you --

10 THE WITNESS: Nothing from the State?

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, I'm going
12 to give you an admonishment, so hold on a second.
13 Actually, P is admitted.

14 (Exclusive Representative's Exhibit P received
15 in evidence.)

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And sir, I want
17 to admonish you not to discuss your testimony with any of
18 the other witnesses. Do you have any questions regarding
19 that admonishment?

20 THE WITNESS: No, sir.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. With
22 that, we are off the record.

23 (Off the record.)

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
25 We're back on the record. We have another witness called

1 by the Exclusive Representative. But first, before
2 swearing in the witness, I'm going to mark as Exclusive
3 Representative Q what appears to be a Declaration of
4 Kenneth Ehrman.

5 (Exclusive Representative's Exhibit Q marked
6 for identification.)

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

9 (Witness sworn by the Judge.)

10 THE WITNESS: I do.

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

13 THE WITNESS: Kenneth Frank Ehrman. E-H-R-M-A-N.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I
15 have a couple preliminary questions for you, sir. If you
16 can tell me whether you ever received any transcripts in
17 regards to these proceedings.

18 THE WITNESS: No, no transcripts.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
20 additionally, do you know who a James Cline is?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
23 now, passing now to you -- looks like you have it
24 already. And this one has the Specs. If you have a
25 question regards to Specs, I'll pass this on to you.

CERTIFICATION AND
DECLARATION OF TRANSCRIBER

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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.

18
19
20 _____
21 Leisa M. Miller, Transcriber
22 VINE, MCKINNON & HALL
23 Certified Shorthand Reporters
24
25