

MEDICAL BOARD ENFORCEMENT REPORT

DATE REPORT ISSUED: April 5, 2013
DEPARTMENT: Enforcement Program
SUBJECT: Investigator Recruitment and Retention Incentives
STAFF CONTACT: A. Renee Threadgill

REQUESTED ACTION:

Direct Staff to pursue recommended incentives designed to attract and retain Medical Board Investigators.

STAFF RECOMMENDATION:

Staff recommends the following:

- Seek Training Officer differential for staff when engaged in training activities such as, Field Training Officer, Rangemaster, Defensive Tactic Instructor, and other formal training assignments.
- Seek Geographic pay differentials for staff living in Los Angeles.
- Work with the Department of Consumer Affairs to amend the specifications for the investigator classification series to expand the subject areas of the degrees accepted for admission to the examination.

EXECUTIVE SUMMARY:

The Chairman of the Enforcement Committee asked for a report detailing efforts the Board has undertaken to address the recruitment and retention of Medical Board investigative staff. As previously reported, the turnover of investigative personnel is a chronic problem and one that is not easily remedied. Many reasons for investigator turnover can be cited including:

- Medical Board investigators receive extensive specialty training from the Medical Board and as a result are constantly being recruited by other state law enforcement agencies, especially in the competitive Southern California area.
- The Medical Board is unable to compete with other state agencies that offer as much as \$200 extra per month to offset cost of living in high cost areas.
- The attraction of less complicated cases offered by other state agencies.
- Entry level requirements include a degree in Criminal Justice. This is extremely narrow and should be broadened to include other degrees.

FISCAL CONSIDERATIONS:

To be determined.

PREVIOUS MBC AND/OR COMMITTEE ACTION:

The following attachment provides chronology of efforts to address the recruitment and retention of Medical Board investigative staff.

MEDICAL BOARD OF CALIFORNIA ENFORCEMENT PROGRAM

CHRONOLOGY OF EFFORTS TO ENHANCE INVESTIGATOR CLASSIFICATION

December 1975 – the Medical Injury Compensation Reform Act passed, Board of Medical Quality Assurance (later renamed the Medical Board of California) authorized to employ investigative staff.

February 1977 – investigators in the Department of Consumer Affairs (DCA) Division of Investigation whose principal caseload included cases for the Board of Medical Quality Assurance were transferred to the Board of Medical Quality Assurance.

1989 – 1990 Legislative Session – Senator Robert Presley introduced and the Legislature enacted Senate Bill 2375 (the Medical Judicial Procedure Improvement Act). The Legislation included the following intent language regarding investigator pay: “It is also the intent of the Legislature that the pay scales for investigators of the Medical Board of California be equivalent to the pay scales for special investigative agents of the Department of Justice, in order to attract and retain experienced investigators.”

June 1990 – DCA analyzed the duties and responsibilities of employees in the Special Investigator Series with the Department of Alcoholic Beverage Control, Department of Insurance, Department of Motor Vehicles (DMV), and the Department of Justice (DOJ); found that DCA investigator’s duties most closely compared to those of the DOJ Attorney General Investigator.

March 22, 1991 – DCA signed a Budget Change Proposal (BCP) for Fiscal Year 1991-92 for the Medical Board, to facilitate implementation of SB 2357 (Presley).

April 9, 1991 – the State Personnel Board (SPB) established the new series for Investigator, DCA, which provided for a 10% increase over the Special Investigator Series.

May 1, 1994 – DPA granted recruitment and retention pay to employees within the Special Investigator Series at the DMV (Los Angeles County) and the Employment Development Department (Los Angeles County).

April 1, 1995 – DPA granted recruitment and retention pay to employees within the Department of Health Services.

July 1995 – MBC submitted a request to the DCA for a \$200 retention pay in Los Angeles County.

September 7, 1995 – DCA, on behalf of the MBC, submitted a request for recruitment and retention pay to the DPA.

October 6, 1995 – The September 7, 1995 request was retracted and modified, then resubmitted to the DPA as a request for recruitment and retention pay differential for the Investigator, DCA Series, which included DOI and Dental Board of California investigators.

January 16, 1996 – DPA denied the October 6, 1995 request.

April 2, 1996 – Letter from Ron Joseph to DPA requesting approval of a \$200 recruitment and retention differential for MBC offices located in Los Angeles Glendale, Torrance, Woodland Hills, and Diamond Bar), as a necessary interim measure to maintain MBC's business operations.

October 7, 1996 – DPA denied the April 2, 1996 request.

December 1996 – DPA granted recruitment and retention pay to employees within the Special Investigator Series at the Department of Social Services.

December 1998 – DPA granted recruitment and retention pay to employees within the Special Investigator Series at the DMV (Orange and San Francisco Counties) in December 1998.

March 17, 1999 – Letter from Ron Joseph, MBC Executive Director, to Kathleen Hamilton, DCA Director, requesting that the DCA submit a request to the DPA to pursue including, in any negotiations with Bargaining Unit 7, (1) the establishing a lump sum (cost of living) incentive for MBC Investigators and Senior Investigators for positions in Los Angeles County, or establishing uniform statewide geographic pay differential for all peace officers, available to all state departments, for all locations with recruitment and/or retention difficulties, and (2) establishing a Field Training Officer pay differential for Senior Investigators at MBC.

June 1, 1999 – DCA, on behalf of MBC, submitted MBC's March 17, 1999, request to DPA.

July 1, 1999 – the Bargaining Unit 7 (BU7) Contract was ratified with a provision that the State and BU7 agreed to coordinate their efforts to develop a classification proposal for the Special Investigator class series.

October 2, 2000 – Ana Facio, MBC Deputy Chief Enforcement Field Operations, submitted a Request for Approval of Proposed Legislation, to amend B&P section 2220 to include the original Legislative mandate outlined in SB 2375 to realign the pay for MBC investigators to that of DOJ Special Agent series.

2000 – Request to *Rectify Salary Disparity as a Result of the Bargaining Unit Agreement* document written, presumably as a request for negotiations for the 2001 – 2003 BU7 contract. Document includes request to establish recruitment and retention pay differential for Investigator Assistant, Investigator, Senior Investigator, Supervising Investigator I, or Supervising Investigator II, and training officer pay differentials for specified investigator positions.

July 1, 2001 – the Bargaining Unit 7 (BU7) Contract was ratified without establishing recruitment and retention or training officer pay differentials.

December 1, 2001 – In an email from Tonya Blood (DCA's Labor Relations Manager) to Ana Facio, Ms. Blood wrote "Regarding your request to continue to pursue the FTO pay, unfortunately it cannot be done at this time. DPA has put a moratorium on all items that have a cost. According to DPA, FTO pay is a cost item and although small it cannot be approved at this time."

November 6, 2002 – Board President sent letter to Governor Gray Davis seeking his support to overcome salary and differential inequities. The correspondence noted that it is troublesome and contrary to good management practices when a single employer, the State of California, allows some of its agencies to offer benefits in the same geographic area in which it is denied to other agencies.

January 1, 2006 – The Legislature enacted Senate Bill 231 (Figueroa). Under SB 231 the MBC and the Health Quality Enforcement Section (HQES) of the Department of Justice (DOJ) were required to implement a vertical prosecution (VP) model to conduct its investigations and prosecutions. Under this legislatively defined VP model, each complaint referred to a MBC district office for investigation is simultaneously and jointly assigned to a MBC investigator and an HQES deputy. Throughout much of the legislative process, SB 231 contained a provision which specified that MBC investigators would be transferred to the DOJ, thus creating a more streamlined and centralized enforcement system to achieve the public protection goal. However, shortly before it was enacted, SB 231 was amended and this proposed transfer of investigators was deleted.

April 12, 2007 – Memorandum from Dave Thornton to MBC Board Members, detailing the efforts the Board has taken to address the recruitment and retention of Medical Board investigative staff.

1. Working with the DCA to seek a reclassification of investigators including a salary increase, and to revise the minimum qualifications for entry level investigators,
2. Seeking full implementation of Vertical Enforcement to include the transfer of investigative staff to the DOJ, HQES,
3. Working with the Senate budget subcommittee to explore ways the Legislature can assist the Board in addressing the issue of investigator pay differentials,
4. Exploring the possibility of a pay differential for investigators through the Budget Change Proposal process.

April 2009 – Susan Lorenz, CPS Human Resource Services, provides the MBC with recommendations after conducting an Investigator Classification review for the MBC.

1. Complete the drafting and review of the MBC Investigator duty statements and submit them to DCA for final approval (completed),
2. Formalize the Investigator training program by ensuring all Investigators complete a specified number of POST-certified courses, in addition to any on-the-job training, by a specified time after their original appointment (on-going),
3. Craft a an official request for a two stage pay differential (suggested 5% and 10%) focusing on additional training, and
4. Submit the request to the DCA Human Resources Office for review and future inclusion in bargaining or other compensation review requests (completed).

August 26, 2009 – Memorandum to Mike Navarro, Project Consultant, CPS Human Resource Services, from Pete Strom, outlining comments on the Investigator Study conducted by Susan Lorenz. Mr. Navarro agreed with Ms. Lorenz's basic conclusion that a pay differential, rather than establishment of a new classification, provided the most promise as a possible solution.

March 1, 2010 – Letter to Brian Stiger, DCA Director, from Renee Threadgill requesting that the DCA submit a request to the DPA to pursue including, in any negotiations with Bargaining Unit 7, the Investigator, DCA, and Senior Investigator classifications under Bargaining Unit 7 Contract Agreement, Section 19.24 Differential – Training Officer, for the purposes of Field Training Officer (FTO), Rangemaster, Defensive Tactics Instructor, and other formal training assignments.

May 4, 2010 – Memorandum from Brian Stiger responding (in part) that DCA's Office of Human Resources (OHR) "is currently working on establishing pay differentials, revising existing pay differentials and reviewing salary. The Investigator class and the respective pay differential requests will be reviewed in mid-July. At that time, the OHR will contact Programs that use the Investigator class series and meet with them to obtain insight on the existing challenges, and provide information that will assist in the approval of pay differentials."

November 2, 2010 – The Investigator deep class series was established by the State Personnel Board. A deep class series provides for three ranges of salaries based on an investigator's education, experience, skills, and competencies. The establishment of the Investigator deep class series eliminated the need for an examination for promotion to a senior level position within the Investigator series.

April 1, 2011 – the Bargaining Unit 7 (BU7) Contract was ratified with no provisions addressing Ms. Threadgill's March 1, 2010 request to DCA.