

**ITEM 13**  
**FINAL STAFF ANALYSIS**  
**PROPOSED STATEWIDE COST ESTIMATE**

Penal Code Section 14250

Statutes 2000, Chapter 822

Statutes 2001, Chapter 467

*DNA Database*

(00-TC-27)

and amendment to

*Postmortem Examinations: Unidentified Bodies*

(02-TC-39)

County of San Bernardino and County of Los Angeles, Claimants

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**EXECUTIVE SUMMARY**

**Summary of the Mandate**

On September 30, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision that Penal Code section 14250 constitutes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to perform the following activities:

- For coroners to collect samples for DNA testing from the remains of unidentified persons and send the samples to [the Department of Justice (DOJ)] in accordance with the DOJ-developed standards and guidelines [see DOJ Information Bulletins 01-BFS-04 and 02-BFS-03] for preservation and storage of DNA samples (Pen. Code, § 14250, subs. (b) & (c)(1)). This does not include storing DNA samples from remains of unidentified deceased persons either before sending to DOJ or upon return. It does include exhumation in circumstances where it is the only alternative available to meet the reporting needs under the test claim statute.
- For local law enforcement to: (1) inform parents or other appropriate relatives of those missing under high-risk circumstances (as defined) that they may give a voluntary sample of DNA within 30 days after making a report, and (2) take a DNA sample in a manner prescribed by DOJ, including using a model kit (Pen. Code, § 14250, subs. (c)(2) & (c)(4)).
- For local law enforcement to: (1) reverify the status of a missing person before submitting a DNA sample to DOJ, and (2) send the DNA sample and any supplemental information to DOJ with the crime report 30 days after the filing of a report (Pen. Code, § 14250, subd. (c)(5)).

The claimant filed the test claim on June 25, 2003. The Commission adopted the parameters and guidelines on June 26, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 1, 2006.

### Statewide Cost Estimate

Staff reviewed the claims data submitted by one city and one county and compiled by the SCO. The actual claims data showed that two local agencies filed seven claims between fiscal years 2001-2002 and 2004-2005, for a total of \$130,426.<sup>1</sup> A draft staff analysis and proposed statewide cost estimate were issued on December 7, 2006, and the Department of Finance (DOF) submitted comments on January 3, 2007. No substantive changes were made to the proposed statewide cost estimate. However, staff revised its assumptions to address DOF's comments.

Staff made the following assumptions to develop a statewide cost estimate for this program:

1. The actual amount claimed will increase if late or amended claims are filed. A claimant's representative indicates that additional claims are not expected because many of the local agencies will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims. DOF reports that at least one additional claimant intends to file claims.
2. The actual amount claimed may decrease because the SCO may reduce any reimbursement claim for this program if it is deemed to be excessive or unreasonable.
3. The City of Los Angeles and Los Angeles County will continue to incur costs over \$1,000 and will continue to file reimbursement claims.

The estimate includes seven fiscal years for a total of \$168,541. After the initial implementation period, this averages to \$12,472 annually in costs for the state. The following table is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2001-2002	1	\$ 1,693
2002-2003	2	86,938
2003-2004	2	30,022
2004-2005	2	11,773
2005-2006 (estimated)	N/A	12,185
2006-2007 (estimated)	N/A	12,563
2007-2008 (estimated)	N/A	13,367
<b>TOTAL</b>	<b>7</b>	<b>\$ 168,541</b>

### Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$168,541** (\$12,472 in annual costs after the initial implementation period for costs incurred in complying with the *DNA Database* program and the amendment to the *Postmortem Examinations: Unidentified Bodies* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

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<sup>1</sup> Claims data reported as of November 13, 2006.

## STAFF ANALYSIS

### Summary of the Mandate

On September 30, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision that Penal Code section 14250 constitutes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to perform the following activities:

- For coroners to collect samples for DNA testing from the remains of unidentified persons and send the samples to [the Department of Justice (DOJ)] in accordance with the DOJ-developed standards and guidelines [see DOJ Information Bulletins 01-BFS-04 and 02-BFS-03] for preservation and storage of DNA samples (Pen. Code, § 14250, subs. (b) & (c)(1)). This does not include storing DNA samples from remains of unidentified deceased persons either before sending to DOJ or upon return. It does include exhumation in circumstances where it is the only alternative available to meet the reporting needs under the test claim statute.
- For local law enforcement to: (1) inform parents or other appropriate relatives of those missing under high-risk circumstances (as defined) that they may give a voluntary sample of DNA within 30 days after making a report, and (2) take a DNA sample in a manner prescribed by DOJ, including using a model kit (Pen. Code, § 14250, subs. (c)(2) & (c)(4)).
- For local law enforcement to: (1) reverify the status of a missing person before submitting a DNA sample to DOJ, and (2) send the DNA sample and any supplemental information to DOJ with the crime report 30 days after the filing of a report (Pen. Code, § 14250, subd. (c)(5)).

The claimant filed the test claim on June 25, 2003. The Commission adopted the parameters and guidelines on June 26, 2006. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 1, 2006.

### Reimbursable Activities

#### A. Coroners: One-Time Activities

1. Develop internal policies and procedures to implement the activities listed under Sections IV.A. and IV.B. of these parameters and guidelines.
2. Train each staff person who may be required to initiate, prepare, or file some or all of the subject DOJ samples for complying with DOJ's reporting requirements. (*One-time activity per employee*).

#### B. Coroners: Ongoing Activities

1. Collecting samples for DNA testing from the remains of all unidentified persons. This includes exhumation in circumstances where it is the only alternative available to meet the reporting needs under the test claim statute (Pen. Code, § 14250, subs. (b) & (c)(1)). This also includes reburial of the remains to the extent the person remains unidentified or there is no family to which to return the remains.
2. Sending collected samples to DOJ in accordance with DOJ-developed standards and guidelines for preservation and storage of DNA samples (Pen. Code, § 14250, subs. (b) & (c)(1); DOJ Information Bulletin 01-BFS-04).

C. Law Enforcement: One-Time Activities

1. Develop internal policies and procedures to implement the activities listed under Sections IV.C. and IV.D. of these parameters and guidelines.
2. Training for each law enforcement personnel involved in collecting DNA samples, limited to 20 minutes. Agencies may choose to have employees view the 20-minute Missing Persons DNA training video developed by the Commission on Peace Officer Standards and Training and the Office of the Attorney General (DOJ Information Bulletin 02-BFS-03). (*One-time activity per employee.*)

D. Law Enforcement: Ongoing Activities

1. Within 30 days after making a report, informing the parents or other appropriate relatives of those missing under high-risk circumstances (as defined by Pen. Code, § 14250, subd. (a)(4)) that they may give a voluntary sample for DNA testing or may collect a DNA sample from a personal article belonging to the missing person, if available (Pen. Code, § 14250, subds. (c)(2) & (c)(4)). This includes explanation of the standard release form developed by DOJ.
2. Taking DNA samples in a manner prescribed by DOJ, including the use of model DNA sample kits (Pen. Code, § 14250, subds. (c)(2) & (c)(4); DOJ Information Bulletin 02-BFS-03).
3. Reverifying the status of a missing person before submitting a DNA sample to DOJ (Pen. Code, § 14250, subd. (c)(5)).
4. After 30 days has elapsed from the date the report was filed, sending the DNA sample and any supplemental information to DOJ with a copy of the crime report (Pen. Code, § 14250, subd. (c)(5)).

**Statewide Cost Estimate**

Staff reviewed the claims data submitted by one city and one county and compiled by the SCO. The actual claims data showed that two local agencies filed seven claims between fiscal years 2001-2002 and 2004-2005, for a total of \$130,426.<sup>2</sup> A draft staff analysis and proposed statewide cost estimate were issued on December 7, 2006, and the Department of Finance (DOF) submitted comments on January 3, 2007.<sup>3</sup> Based on the data and DOF's comments, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

1. *The actual amount claimed will increase if late or amended claims are filed.* The claims data includes seven claims filed by the City of Los Angeles and the County of Los Angeles. The data reports the number of unidentified bodies from which a DNA sample was collected, as shown in Table 1 below.

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<sup>2</sup> Claims data reported as of November 13, 2006.

<sup>3</sup> Exhibit A, page 101.

**TABLE 1. NUMBER OF BODIES FROM WHICH  
A DNA SAMPLE WAS COLLECTED**

<b>Fiscal Year</b>	<b>City of Los Angeles</b>	<b>County of Los Angeles</b>
2002-2003	4	106
2003-2004	6	31
2004-2005	4	9

Late claims may be filed for this program until August 2007. One claimant representative indicates that additional claims are not expected because many of the local agencies will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims.<sup>4</sup> In its comments dated January 3, 2007, DOF stated that it was aware of at least one additional local agency that intends to file reimbursement claims under this mandate, but was not able to provide an estimate of costs. Both statements support our assumption that the actual amounts claimed will increase if additional claims are filed.

2. *The actual amount claimed may decrease because the SCO may reduce any reimbursement claim for this program. If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.*
3. *The City of Los Angeles and Los Angeles County will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*

Methodology

*Fiscal Years 2001-2002 through 2004-2005*

The proposed statewide cost estimate for fiscal years 2001-2002 through 2004-2005 is based on the seven actual reimbursement claims filed with the SCO for these years. However, staff notes that the claims are unaudited.

*Fiscal Years 2005-2006, 2006-2007, and 2007-2008*

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2004-2005 (3.5%), as forecast by DOF. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%). Finally, staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2006-2007 (6.4%).

The proposed statewide cost estimate includes seven fiscal years for a total of \$168,541. After the initial implementation period, this averages to \$12,472 annually in costs for the state.

Following is a breakdown of estimated total costs per fiscal year:

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<sup>4</sup> Telephone conversation on November 16, 2006.

**TABLE 2. BREAKDOWN OF ESTIMATED  
TOTAL COSTS PER FISCAL YEAR**

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2001-2002	1	\$ 1,693
2002-2003	2	86,938
2003-2004	2	30,022
2004-2005	2	11,773
2005-2006 (estimated)	N/A	12,185
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**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$168,541** (\$12,472 in annual costs after the initial implementation period) for costs incurred in complying with the *DNA Database* program and the amendment to the *Postmortem Examinations: Unidentified Bodies* program.