

January 11, 2006

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor/Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

*And Affected State Agencies and Interested Parties (see enclosed mailing list)*

RE: **Staff Analysis and Proposed Statewide Cost Estimate**  
*False Reports of Police Misconduct, 00-TC-26*  
County of San Bernardino, Claimant  
Penal Section 148.6, subdivisions (a)(2) and (a)(3)  
Statutes 1995, Chapter 590  
Statutes 2000, Chapter 289

Dear Ms. Ter Keurst:

The staff analysis and proposed statewide cost estimate for this program are enclosed for your review.

### **Commission Hearing**

The hearing on this matter is set for Thursday, **January 26, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

### **Special Accommodations**

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions, please contact Tina Poole at (916) 323-8220.

Sincerely,

PAULA HIGASHI  
Executive Director

Enclosures

**ITEM 14**  
**PROPOSED STATEWIDE COST ESTIMATE**  
**FINAL STAFF ANALYSIS**

Penal Code Section 148.6, Subdivisions (a)(2) and (a)(3)

Statutes 1995, Chapter 590

Statutes 2000, Chapter 289

*False Reports of Police Misconduct (00-TC-26)*

County of San Bernardino, Claimant

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**EXECUTIVE SUMMARY**

On January 29, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision for the *False Reports of Police Misconduct* program. The Commission found that Penal Code section 148.6, subdivision (a), sections (2) and (3), constitute a new program or higher levels of service and impose a reimbursable state-mandated program upon city and county law enforcement agencies within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514. The *False Reports of Police Misconduct* program requires any law enforcement agency accepting an allegation of misconduct against a peace officer to have the complainant read and sign a specified information advisory and requires the advisory to be available in multiple languages.

The claimant, County of San Bernardino, filed the test claim on July 5, 2001. The Commission adopted the Statement of Decision on January 29, 2004, and the parameters and guidelines on March 30, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 4, 2005. The Commission uses these initial claims to develop the statewide cost estimate.

The SCO provided unaudited claims data to the Commission on November 3, 2005. The claims data showed that eight cities and two counties filed 28 claims between fiscal years 1999-2000 and 2004-2005. Based on the data provided by the SCO, staff made the following assumptions:

1. *The actual claiming data is unaudited.* The 28 actual claims filed by eight cities and two counties for fiscal years 1999-2000 through 2004-2005 are unaudited and may be inaccurate.<sup>1</sup>
2. *The actual amount claimed will increase if late or amended claims are filed.* Only eight cities and two counties have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities and counties, the amount of reimbursement

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<sup>1</sup>Claims data reported as of November 3, 2005.

claimed may exceed the statewide cost estimate. For this program, late claims may be filed until October 4, 2006. However, according to claimant representatives, no late claims will be filed.

3. *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 reduce a claim. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
4. *Most cities and counties may not meet the minimum \$1,000 filing threshold that entitles them to claim for reimbursement,* because the Commission denied reimbursement for most of the activities alleged by the claimant.

The proposed statewide cost estimate includes eight fiscal years for a total of \$126,024. This averages to \$15,753 annually in costs for the state.

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

**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>
1999-2000	6	16,787
2000-2001	5	16,797
2001-2002	5	15,254
2002-2003	4	13,341
2003-2004	3	11,175
2004-2005	4	16,979
2005-2006 (estimated)	N/A	17,573
2006-2007 (estimated)	N/A	18,118
<b>TOTAL</b>	<b>27</b>	<b>126,024</b>

On December 16, 2005, staff issued the proposed statewide cost estimate for comment. On January 5, 2006, the claimant responded that they concur with the draft staff analysis and proposed statewide cost estimate.<sup>2</sup>

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$126,024 for costs incurred in complying with the *False Reports of Police Misconduct* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

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<sup>2</sup> Exhibit A.

## STAFF ANALYSIS

### Summary of the Mandate

On January 29, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision for *False Reports of Police Misconduct* (00-TC-26). The Commission found that Penal Code section 148.6, subdivision (a), sections (2) and (3), constitute a new program or higher levels of service and impose a reimbursable state-mandated program upon city and county law enforcement agencies within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

The claimant filed the test claim on July 5, 2001. The Commission adopted the Statement of Decision on January 29, 2004, and the parameters and guidelines on March 30, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 4, 2005. The Commission uses these initial claims to develop the statewide cost estimate.

### Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

#### ***Reimbursement Period July 1, 1999 through December 31, 2000<sup>3</sup>:***

In accepting an allegation of peace officer misconduct, requiring the complainant to read and sign the advisory prescribed in Penal Code section 148.6, subdivision (a)(2).<sup>4</sup>

#### A. One-Time Activity

1. Update policies and procedures to implement the reimbursable activities listed in Section IV. B. of the parameters and guidelines.

#### B. On-going Activity

1. Provide the complainant with the PC 148.6 advisory form.

#### ***Reimbursement Period Begins January 1, 2001<sup>5</sup>:***

Make the advisory available in multiple languages, utilizing the translations available from the state.<sup>6</sup>

#### C. One-Time Activities

1. Create an electronic and/or paper advisory form folder to file multi-language PC 148.6 advisory forms, which are created and released by the Department of Justice.
2. Update policies and procedures to implement the reimbursable activities listed in Section IV. C. and D. of the parameters and guidelines.

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<sup>3</sup> Pursuant to Government Code section 17557, subdivision (c).

<sup>4</sup> Penal Code section 148.6, subdivision (a)(2), as added by Statutes 1995, chapter 590.

<sup>5</sup> Pursuant to Government Code section 17557, subdivision (c).

<sup>6</sup> Penal Code section 148.6, subdivision (a)(3), as added by Statutes 2000, chapter 289.

#### D. Ongoing Activities

1. Downloading the PC 148.6 advisory form and saving it to an electronic and/or paper advisory form folder.
2. Update the multi-language advisory form folder as needed, if additional PC 148.6 advisory forms become available through the Department of Justice.
3. Inform the local law enforcement agency employees about the availability of the new (or any changes made to the existing) PC 148.6 advisory forms by the Department of Justice.
4. Provide the complainant with the advisory form written in a language understood by the complainant if the advisory form is available from the Department of Justice.<sup>7</sup>

#### Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The actual claims data showed that eight cities and two counties filed 28 claims between fiscal years 1999-2000 and 2004-2005, for a total of \$90,990. Based on this data, 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 claiming data is unaudited.* The 28 actual claims filed by eight cities and two counties for fiscal years 1999-2000 through 2004-2005 are unaudited and may be inaccurate.<sup>8</sup>
2. *The actual amount claimed will increase if late or amended claims are filed.* Only eight cities and two counties have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining cities and counties, the amount of reimbursement claimed may exceed the statewide cost estimate. For this program, late claims may be filed until October 4, 2006. However, according to claimant representatives, no late claims will be filed.
3. *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 reduce a claim. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
4. *Most cities and counties may not meet the minimum \$1,000 filing threshold that entitles them to claim for reimbursement,* because the Commission denied reimbursement for most of the activities alleged by the claimant.

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<sup>7</sup> Penal Code section 148.6, subdivision (a)(2) and (a)(3).

<sup>8</sup> Claims data reported as of November 3, 2005.

## Methodology

### *Fiscal Years 1999-2000 through 2004-2005*

The proposed statewide cost estimate for fiscal years 1999-2000 through 2004-2005 is based on 27 of the 28 actual reimbursement claims filed with the SCO for these years. The claim filed by the City of Merced for fiscal year 2004-2005 was disallowed because it did not meet the minimum \$1,000 filing threshold that entitles it to claim for reimbursement.

### *Fiscal Years 2005-2006 and 2006-2007*

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 the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%).

The proposed statewide cost estimate includes eight fiscal years for a total of \$126,024. This averages to \$15,753 annually in costs for the state.

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### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$126,024 for costs incurred in complying with the *False Reports of Police Misconduct* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

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<sup>9</sup> Exhibit A.