

ITEM 4
FINAL STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES

Penal Code Section 13519.4

Statutes 2000, Chapter 684

Racial Profiling: Law Enforcement Training
01-TC-01

County of Sacramento, Claimant

EXECUTIVE SUMMARY

This test claim addresses a statute that prohibits law enforcement officers from engaging in racial profiling and establishes racial profiling training requirements for law enforcement officers, with the curriculum developed by the Commission on Peace Officer Standards and Training (POST). On October 26, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Racial Profiling: Law Enforcement Training* program (01-TC-01). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for *up to five hours* of initial racial profiling training for incumbent law enforcement officers under the following conditions:

1. the training is provided to incumbent law enforcement officers who completed basic training on or before January 1, 2004;
2. the training is certified by POST;
3. the training is attended during the officer's regular work hours, or training is attended outside the officer's regular work hours *and* there is an obligation imposed by an MOU existing on January 1, 2001, which requires that the local agency pay for continuing education training; and
4. the training causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year continuing education cycle that included the initial five-hour racial profiling training occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended *prior to* the initial racial profiling course.

The Commission further found that Penal Code section 13519.5, subdivision (i), which requires the two-hour refresher racial profiling training, does not impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, because it does not impose "costs mandated by the state."

Discussion

The claimant submitted the proposed parameters and guidelines and Department of Finance filed comments on the proposal. Substantive changes were made to the claimant's proposed parameters and guidelines, and a draft staff analysis and the proposed parameters and guidelines, as modified by staff, were issued for public comment. The State Controller's Office proposed nonsubstantive technical changes that were made by staff. The Department of Finance concurred with the staff analysis and proposed parameters and guidelines. Following are the substantive changes proposed by staff:

II. *Eligible Claimants Were Revised to Remove Special Districts*

The claimant defines eligible claimants for this program to include cities, counties, and special districts. The test claim was filed by a county. Counties and cities are required by the California Constitution to have a police department.¹ While special districts are authorized by statute to hire peace officers, the law does not require that they do so. Thus, the issue is whether the test claim statute constitutes a state-mandated program for special districts.

This issue is directly related to litigation pending in the Third District Court of Appeal (*Department of Finance v. Commission on State Mandates*, Case No. C056833 (*POBOR*)). Therefore, Commission staff is only proceeding with parameters and guidelines for eligible cities and counties for the *Racial Profiling: Law Enforcement Training* program. Once a final decision is issued in the *POBOR* case, the Commission will proceed with parameters and guidelines for special districts, and address the issue whether Penal Code section 13519.4 constitutes a state-mandated program for special districts. Staff revised the proposed parameters and guidelines to remove special districts.

III. *Period of Reimbursement Was Revised to Add One Year*

The claimant proposed a reimbursement period beginning January 1, 2002. The test claim statute became effective on January 1, 2001, and required one-time racial profiling training to begin by January 1, 2002. The test claim statute states that the training shall begin *no later than* January 1, 2002, which does not preclude the agency from providing racial profiling training sooner than that date. Therefore, based on the test claim statute, the filing date for the test claim, and the effective date of the test claim statute, staff revised this section of the proposed parameters and guidelines to clarify that reimbursement begins on January 1, 2001.

Estimated Claims

Prior to February 16, 2008, claimants were authorized to file estimated reimbursement claims for the current fiscal year. Claimants were required to file a reimbursement claim showing actual costs for that fiscal year by the following February 15. On February 16, 2008, the Governor enacted ABX3 8 (Stats. 2008, ch. 6) in special session as part of an overall budget reduction package for the 2007-2008 fiscal year. ABX3 8 became effective immediately. The bill repealed the authority for claimants to file and be paid for estimated reimbursement claims. Therefore, staff removed any references to estimated reimbursement claims from this section of the proposed parameters and guidelines.

IV. *Reimbursable Activities Were Narrowed*

The claimant proposed that, based on the Statement of Decision, the reimbursable activities be eligible for reimbursement on a one-time basis for the period of January 1, 2002 through July 31, 2004. The Statement of Decision findings define under what circumstances a local agency may be reimbursed. The findings do not define or limit the period of reimbursement. The Commission found that the test claim statute requires one-time initial five-hour racial profiling training to begin by January 1, 2002, and the Legislative Training Mandates document issued by POST suggests that incumbent officers complete the initial racial profiling course by July 2004. Thus, although not mandated, POST recommends the initial training be completed within a specified period of time. Therefore, staff removed claimant's proposed limitation that the activities are only eligible for reimbursement for the period of January 1, 2002 through July 31, 2004.

Training

Department of Finance recommends that reimbursement for time the in-house trainer spends in being trained by POST in a racial profiling train-the-trainer course be deleted because train-the-trainer courses are offered at no charge to local agencies. POST developed a five-hour approved curriculum to meet the

¹ Article XI, sections 1, 5.

initial training and it was designed to be presented in-house by a trained instructor within the law enforcement agency. That course is given on an ongoing basis by the Museum of Tolerance in Los Angeles at no cost to the law enforcement agency. However, there are costs for local agencies to pay officers' staff time to attend the training, and travel costs to send the officers to the training.

Under the Commission's regulations, the Commission may include the "most reasonable methods of complying with the mandate" in the parameters and guidelines. The "most reasonable methods of complying with the mandate" are "those methods not specified in statute or executive order that are necessary to carry out the mandated program." Staff finds that reimbursing certain officers' time to attend the training and their travel costs so that they can return and train other law enforcement officers is the most reasonable method of complying with the mandate. Therefore, staff did not remove this activity.

Set Up and Facilities Costs

Department of Finance also recommends that reimbursement for "set up and facilities costs" be deleted, because the test claim statute did not specifically require these costs, and set up and facilities costs would be appropriately recovered through indirect costs.

Costs for fixed assets and equipment may be recovered through indirect costs. However, "facilities" costs, such as additional training facility expenses, are not recovered through indirect costs. There is nothing in the record to show that facilities costs are reasonably necessary to carry out the mandate. Therefore, staff removed facilities costs from Section IV.

The test claim, signed under penalty of perjury, alleges "set up" costs as set up and prep time for the *trainer*. Staff finds that set up costs for the trainer is a reasonable method of complying with the mandate, because the trainer will have to spend employee time preparing for the training. Therefore, staff retained set up costs as a reimbursable activity.

VII. Offsetting Revenue and Other Reimbursements Were Revised to Offset Existing State Aid

Penal Code section 13523 provides authority for POST to allocate from the Peace Officers' Training Fund state aid to cities and counties that have applied and qualified for aid. Staff added language to this section to clarify that any funds a city or county receives pursuant to Penal Code section 13523 must be offset from claimed amounts.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Claimant

County of Sacramento

Chronology

08/13/01 County of Sacramento filed test claim with the Commission on State Mandates (Commission)

09/14/01 The Department of Finance (DOF) submitted comments on test claim with the Commission

09/24/01 POST filed comments on test claim with the Commission

06/18/02 County of Sacramento filed reply to DOF comments

08/03/05 Commission staff requested additional comments on test claim from POST

08/10/05 POST filed additional requested comments on test claim with the Commission

08/16/06 Commission staff issued draft staff analysis

09/05/06 DOF submitted comments to the Commission

10/13/06 Commission staff issued final staff analysis

10/26/06 Commission adopted Statement of Decision partially approving test claim

10/31/06 Commission issued Statement of Decision and notified claimant that proposed parameters and guidelines are due November 30, 2006

03/02/07 Claimant submitted proposed parameters and guidelines

03/07/07 Commission issued proposed parameters and guidelines for comment and informed claimant that pursuant to Government Code section 17557, since the proposed parameters and guidelines were not timely filed, the amount of reimbursement due the claimant for the first 12 months of incurred costs would be reduced by 20 percent

03/22/07 Department of Finance submitted comments on proposed parameters and guidelines

02/25/08 Commission staff issued the draft staff analysis on proposed parameters and guidelines and set hearing for March 28, 2008

03/11/08 Department of Finance submitted comments on the draft staff analysis and proposed parameters and guidelines.

03/12/08 State Controller's Office submitted comments on the draft staff analysis and proposed parameters and guidelines

03/13/08 Commission staff issues final staff analysis

Summary of the Mandate

This test claim addresses a statute that prohibits law enforcement officers from engaging in racial profiling and establishes racial profiling training requirements for law enforcement officers, with the curriculum developed by the Commission on Peace Officer Standards and Training (POST). On October 26, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision

for the *Racial Profiling: Law Enforcement Training* program (01-TC-01).² The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for *up to five hours* of initial racial profiling training for incumbent law enforcement officers under the following conditions:

1. the training is provided to incumbent law enforcement officers who completed basic training on or before January 1, 2004;
2. the training is certified by POST;
3. the training is attended during the officer's regular work hours, or training is attended outside the officer's regular work hours *and* there is an obligation imposed by an MOU existing on January 1, 2001, which requires that the local agency pay for continuing education training; and
4. the training causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year continuing education cycle that included the initial five-hour racial profiling training occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended *prior to* the initial racial profiling course.

The Commission further found that Penal Code section 13519.5, subdivision (i), which requires the two-hour refresher racial profiling training, does not impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, because it does not impose "costs mandated by the state."

Discussion

On March 22, 2007, DOF submitted comments on the claimant's proposal.³ Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the claimant's proposed parameters and guidelines, and Commission staff issued a draft staff analysis and the proposed parameters and guidelines, as modified by staff, for public comment on February 25, 2008.⁴ Department of Finance filed comments on the draft staff analysis and proposed parameters and guidelines on March 11, 2008, concurring with the staff analysis.⁵ On March 12, 2008, the State Controller's Office submitted comments recommending several nonsubstantive technical amendments to the proposed parameters and guidelines.⁶ Staff made the recommended revisions. Staff also made the following substantive changes to the proposed parameters and guidelines:

II. Eligible Claimants

This statute imposes requirements upon the local agencies that employ law enforcement officers, by requiring every law enforcement officer in the state to participate in expanded training regarding racial profiling, beginning no later than January 1, 2002.⁷ In the proposed parameters and guidelines, the claimant defines eligible claimants to include cities, counties, and special districts. The test claim for this

² Exhibit A.

³ Exhibit B.

⁴ Exhibit D.

⁵ Exhibit E.

⁶ Exhibit F.

⁷ Penal Code 13519.4.

program was filed by a county. Counties and cities are required by the California Constitution to have a police department.⁸ While special districts are authorized by statute to hire peace officers, the law does not require that they do so. Thus, the issue is whether the test claim statute constitutes a state-mandated program for special districts.

This issue is directly related to litigation pending in the Third District Court of Appeal (*Department of Finance v. Commission on State Mandates*, Case No. C056833 (*POBOR*)). Therefore, Commission staff is only proceeding with parameters and guidelines for eligible cities and counties for the *Racial Profiling: Law Enforcement Training* program. Once a final decision is issued in *Department of Finance v. Commission on State Mandates (POBOR)*, the Commission will proceed with parameters and guidelines for special districts, and address the issue whether Penal Code section 13519.4 constitutes a state-mandated program for special districts. Staff revised the proposed parameters and guidelines to remove special districts.

III. Period of Reimbursement

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed by the test claimant, County of Sacramento, on August 13, 2001, establishing eligibility for reimbursement period beginning in fiscal year 2000-2001. The test claim statute became effective on January 1, 2001, and required one-time racial profiling training to begin by January 1, 2002. In its Statement of Decision, the Commission found that the test claim statute states that the training shall begin *no later than* January 1, 2002, which does not preclude the agency from providing racial profiling training sooner than that date. Where a local agency conducted the training *prior to* POST releasing its “prescribed and certified” racial profiling training, up to five hours of such training could be considered a mandated activity if the curriculum is approved and certified by POST as meeting the POST specifications for the racial profiling topic. POST can certify such training curriculum *retroactively*, pursuant to California Code of Regulations, title 11, section 1052.

Therefore, the period of reimbursement for this program begins on January 1 2001. Staff revised this section of the proposed parameters and guidelines to clarify that reimbursement begins on January 1, 2001.

Estimated Claims

Prior to February 16, 2008, claimants were authorized to file estimated reimbursement claims for the current fiscal year.⁹ Claimants were required to file a reimbursement claim showing actual costs for that fiscal year by the following February 15. On February 16, 2008, the Governor enacted ABX3 8 (Stats. 2008, ch. 6) in special session, as part of an overall budget reduction package for the 2007-2008 fiscal year. ABX3 8 became effective immediately. The bill repealed the authority for claimants to file and be paid for estimated reimbursement claims. Therefore, staff removed any references to estimated reimbursement claims from this section of the proposed parameters and guidelines.

IV. Reimbursable Activities

The claimant proposed that the following activities be eligible for reimbursement on a one-time basis for the period of January 1, 2002 through July 31, 2004.

1. Time the in house trainer spends in being trained by POST in a racial profiling train-the-trainer course.
2. For those incumbent officers who had completed their twenty four hour Continuing education requirement, salaries and benefits, together with overtime for those officers who are paid overtime

⁸ Article XI, sections 1, 5.

⁹ Government Code sections 17522, 17560, and 17568.

for attending the course for the five hour racial profiling course which takes place between January 1, 2002 and July 31, 2004.

3. Set up and facilities costs.

The Statement of Decision states that reimbursement is provided for one-time training for up to five hours of initial racial profiling training if the training (1) is provided to incumbent law enforcement officers who completed basic training on or before January 1, 2004; (2) is certified by POST; (3) is attended during the officer's regular work hours or is attended outside the officer's regular work hours and there is an MOU existing on January 1, 2001 that requires local agencies pay for continuing education training, and (4) causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year continuing education cycle that included the initial five-hour racial profiling training occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended prior to the initial racial profiling course.

These Commission findings define under what circumstances a local agency may be reimbursed. The findings do not define or limit the period of reimbursement. In the Statement of Decision, the Commission found that the test claim statute requires one-time initial five-hour racial profiling training to begin by January 1, 2002, and the Legislative Training Mandates document issued by POST suggests that incumbent officers complete the initial racial profiling course by July 2004. Thus, although not mandated, POST recommends the initial training be completed within a specified period of time.

Therefore, staff removed claimant's proposed limitation that the activities are only eligible for reimbursement for the period of January 1, 2002 through July 31, 2004. Staff also revised this section of the proposed parameters and guidelines to include the above findings so that the parameters and guidelines conform to the Statement of Decision.

Training

In its comments dated March 22, 2007, DOF recommended the deletion of activity 1: time the in-house trainer spends in being trained by POST in a racial profiling train-the-trainer course. Finance states that this activity should be deleted because train-the-trainer courses are offered at no charge to local agencies. Comments on the test claim draft staff analysis provided by POST on August 10, 2005, stated that POST developed a five-hour approved curriculum to meet the initial training required by Penal Code section 13519.4, subdivision (f). The curriculum was designed to be presented in-house by a trained instructor within the law enforcement agency, who must complete a racial profiling train-the-trainer course prior to facilitating the training. That course is given on an ongoing basis by the Museum of Tolerance in Los Angeles at no cost to the law enforcement agency, and the newly-trained instructor is provided with all necessary course material to train his or her own officers.¹⁰

Staff agrees that there is no cost to local agencies for the actual train-the-trainer training provided by the Museum of Intolerance. However, there are costs for local agencies to pay officers' staff time to attend the training, and travel costs to send the officers to the training.

Section 1183.1, subdivision (a)(4), of the Commission's regulations authorizes the Commission to include the "most reasonable methods of complying with the mandate" in the parameters and guidelines. The "most reasonable methods of complying with the mandate" are "those methods not specified in statute or executive order that are necessary to carry out the mandated program."

Staff finds that reimbursing certain officers' time to attend the training and their travel costs so that they can return and train other law enforcement officers is the most reasonable method of complying with the mandate. Therefore, staff did not remove activity 1.

¹⁰ Exhibit C.

Set Up and Facilities Costs

Department of Finance also requested the deletion of activity 3: set up and facilities costs, because the test claim statute did not specifically require these costs, and set up and facilities costs would be appropriately recovered through indirect costs.

Costs for fixed assets and equipment may be recovered through indirect costs. However, “facilities” costs, such as additional training facility expenses, are not recovered through indirect costs. There is nothing in the record to show that facilities costs are reasonably necessary to carry out the mandate. Therefore, staff removed facilities costs from Section IV.

The test claim, signed under penalty of perjury, alleges “set up” costs as set up and prep time for the *trainer*. Staff finds that set up costs for the trainer is a reasonable method of complying with the mandate, because the trainer will have to spend employee time preparing for the training. Therefore, staff retained set up costs as a reimbursable activity.

VII. Offsetting Revenue and Other Reimbursements

Penal Code section 13523 provides authority for POST to allocate from the Peace Officers’ Training Fund state aid to cities, counties that have applied and qualified for aid. Staff added language to this section to clarify that any funds a city or county receives pursuant to Penal Code section 13523 must be offset from claimed amounts.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

PROPOSED DRAFT PARAMETERS AND GUIDELINES

Penal Code Section 13519.4

Statutes 2000, Chapter 624

Racial Profiling: Law Enforcement Training

01-TC-01

Penal Code, Section 13519.4

County of Sacramento, Claimant

I. SUMMARY OF THE MANDATE

~~Chapter 684, statutes of 2000 enacted Penal Code, Section 13519.4, which required every law enforcement officer in the state to participate in expanded training regarding racial profiling, beginning no later than January 1, 2002. The training was to be prescribed and certified by POST, in collaboration with a five person panel appointed by the Governor, Senate Rules Committee and the Speaker of the Assembly. POST developed a five-hour approved curriculum to meet the initial training requirement. This curriculum designed to be presented in-house by a trained instructor within the law enforcement agency who had completed a racial Profiling Train the Trainer Course prior to facilitating the training.~~

~~On October 26, 2006, the Commission on State Mandates approved the test claim as a partially reimbursable mandate only to the extent that attending the initial five-hour racial profiling training course caused an officer to exceed his or her 24-hour continuing education cycle, when the two-year cycle that included the initial five-hour training course occurred between January 1, 2002 and July 2004, and the continuing education for that cycle was attended prior to the initial racial profiling course.~~

This test claim addresses a statute that prohibits law enforcement officers from engaging in racial profiling and establishes racial profiling training requirements for law enforcement officers, with the curriculum developed by the Commission on Peace Officer Standards and Training (POST). On October 26, 2006, the Commission made the following findings and approved the following activities:

Law enforcement officers are required to take a basic training course prior to exercising their duties as peace officers, and must subsequently complete 24 hours of continuing professional training every two years. The test claim statute, as interpreted by POST, required a five-hour initial racial profiling training course and a two-hour refresher course every five years. Both of these courses can be certified by POST to allow local agencies to apply the training hours towards the 24-hour continuing professional training requirement. Since POST can certify a course retroactively, it is possible for racial profiling courses that were developed and presented prior to the time POST developed its curriculum to be certified to meet the requirements of the test claim statute.

Because the initial five-hour racial profiling training was incorporated into the basic training course for law enforcement officers as of January 1, 2004, and there is no state mandate for local agencies to provide basic training to new recruits, the initial five-hour training can only be required of incumbent officers who completed basic training on or before January 1, 2004. The activity is a mandate on the local agency because the Fair

Labor Standards Act requires employers to compensate their employees for work-related mandatory training when such training occurs during the employees' regular working hours. Additionally, a Memorandum of Understanding between the employer and employee organization, in effect as of January 1, 2001, can require the employer to compensate the employee for work-related mandatory training when it occurs outside the employee's regular working hours.

However, the test claim statute imposes costs mandated by the state *only* to the extent that attending the initial five-hour racial profiling training course causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year cycle that included the initial five-hour racial profiling course occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended *prior to* the initial racial profiling course.

The two-hour racial profiling refresher course does not impose costs mandated by the state and is not reimbursable since that course is only required every five years, beginning after the initial course is provided, and officers can readily incorporate the two-hour course into their 24-hour, two-year continuing education requirement.

II. ELIGIBLE CLAIMANTS

Any city, county, city, or city and county, or special district that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The County of Sacramento filed the test claim for this mandate ~~was filed by the test claimant, County of Sacramento,~~ on August 13, 2001, establishing eligibility for reimbursement beginning in fiscal year 2000-2001. The test claim statute became effective on January 1, 2001. Therefore, costs incurred for compliance with this mandate are reimbursable on or after ~~the period of reimbursement begins~~ January 1, 2001~~2~~, the operative date.

Actual costs for one fiscal year shall be included in each claim. ~~Estimated costs of the subsequent year may be included on the same claim, if applicable.~~ Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564, subdivision (a).

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the

reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, calendars, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following activities are eligible for reimbursement on a one-time basis per eligible employee as described below for the period of January 1, 2002 through July 31, 2004 as follows:

Trainer Activities

1. Time the in-house trainer spends in being trained by POST in a Racial Profiling Train-the-Trainer Course, and traveling to the training course.
- ~~2. For those incumbent officers who had completed their twenty four hour continuing education requirement, salaries and benefits, together with overtime for those officers who are paid overtime for attending the course, for the five hour racial profiling course which takes place between January 1, 2002 and July 31, 2004.~~
2. Set up costs to prepare to conduct training.

Trainee Activities

32. Up to five hours of initial racial profiling training for incumbent law enforcement officers under the following conditions:
 - the training is provided to incumbent law enforcement officers who completed basic training on or before January 1, 2004;
 - the training is certified by POST;
 - the training is attended during the officer's regular work hours, or training is attended outside the officer's regular work hours and there is an obligation imposed by an MOU existing on January 1,

2001, which requires that the local agency pay for continuing education training; and

- the training causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year continuing education cycle that included the initial five-hour racial profiling training occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended *prior to* the initial racial profiling course.

3. ~~Set up and Facilities Costs~~

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each ~~the~~ reimbursable activity ~~activities~~ identified in section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services were ~~are~~ also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distributions base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES SAVINGS AND REIMBURSEMENTS

Any offsetting revenues savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds,

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

including funds allocated to cities, counties, or cities and counties pursuant to Penal Code section 13523, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (~~be~~), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the parameters and guidelines from the Commission, to assist local agencies in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guideline adopted by the Commission.

Pursuant to Government code section 17561, subdivision (d)(~~12~~), issuance of the claiming instructions shall constitute a notice of the right of local agencies to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

VIII-IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

IX-X.- LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.