



July 6, 2022

Captain Jeffrey Jordon
City of San Diego
San Diego Police Department
1401 Broadway
San Diego, CA 92101

Ms. Natalie Sidarous
Local Government Programs and
Services Division
State Controller's Office
3301 C Street, Suite 740
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Proposed Statewide Cost Estimate

Racial and Identity Profiling, 18-TC-02

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46
City of San Diego, Claimant

Dear Captain Jordon and Ms. Sidarous:

The Proposed Statewide Cost Estimate for the above-captioned matter is enclosed for your review.

Hearing

This matter is set for hearing on **Friday, July 22, 2022, in person at 10:00 a.m., at Park Tower, 980 9th Street, Second Floor Conference Room, Sacramento, California, 95814.**

COVID-19 Precautions. The Park Tower Building Management requires that no person will enter the Second Floor Conference Room having tested positive for COVID-19 within the last 30 days or having been exposed to someone who tested positive for COVID-19 or is believed to have contracted COVID-19 within the last 30 days. In addition, the Park Tower Building Management requires that no person will enter the Second Floor Conference Room having any of the following known symptoms of COVID-19: fever, chills, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea. Persons attending this in-person meeting will be required to certify the above prior to entering the Second Floor Conference Room. Additionally, while the mask mandate has been lifted, some Commission staff and potentially other meeting participants are at high risk of severe COVID-19 complications or have autoimmune conditions and may not be protected by the vaccine but are required to attend this in-person meeting. Therefore, you are strongly encouraged to wear a mask to the meeting to protect yourself and your family and to provide a safe workplace for those who are more vulnerable and who will also be in attendance. Masks will be made available at the meeting for anyone who would like one.

Testimony at the Commission Hearing. If you plan to address the Commission on an agenda item, please notify the Commission Office not later than noon on the Wednesday prior to the hearing. Please also include the names of the people who will be speaking for inclusion on the witness list. When calling or emailing, identify the item you want to testify on and the entity you

represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you plan to file any written document for Commission member review, please note that Commission staff will include written comments filed at least 15 days in advance of the hearing in the Commissioners' hearing binders. Additionally, staff will transmit written comments filed between 15 and five days prior to a meeting to the Commission members, if possible. However, comments filed less than five days prior to a meeting or submitted at the meeting will not be included in the Commissioners' hearing binders and the commenter shall provide 12 paper copies of the comments to Commission staff at the meeting for such late filings. Commission staff shall provide copies of late comments submitted at the hearing to the Commission members and shall place a copy on a table for public review at the hearing (Cal. Code Regs., tit. 2, § 1181.10(b)(1)). Please also file the PDF document provided via the Commission's dropbox at <https://csm.ca.gov/dropbox.php> prior to the hearing.

This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on consent and wish to testify at the hearing or have a representative testify on your behalf, and if other witnesses will appear.

In that case, please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) 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.

Sincerely,



Heather Halsey
Executive Director

ITEM 7

PROPOSED STATEWIDE COST ESTIMATE

\$25,523,241¹

For the Initial Claiming Period of 2017-2018, 2018-2019, and 2019-2020

\$10,792,578- \$11,763,910

Estimated Annual Costs for Fiscal Year 2020-2021²

Government Code Section 12525.5 as added and amended by
Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518)

California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228,
and 999.229 as added by Register 2017, No. 46³

Racial and Identity Profiling

18-TC-02

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate by a vote of [vote count will be included in the adopted Statewide Cost Estimate] during a regularly scheduled hearing on July 22, 2022 as follows:

Member	Vote
Lee Adams, County Supervisor	
Jeannie Lee, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Renee Nash, School District Board Member	
Sarah Olsen, Public Member	

¹ Since the deadline to file late claims for the initial reimbursement period passed on April 21, 2022, this number reflects all claims that may be filed on this program for these fiscal years.

² The Government Code requires a statewide costs estimate for the initial claiming period and the year following, and that usually provides the Legislature with a rough estimate for future annual costs. However, due to the structure of this program, it is estimated that annual costs will increase by at least 12.5 percent in 2021-2022 and 25 percent in 2022-2023, as additional waves are required to collect and report data, after which one-time costs will significantly reduce and annual costs will stabilize.

³ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

Member	Vote
Shawn Silva, Representative of the State Controller	
Spencer Walker, Representative of the State Treasurer, Vice Chairperson	

STAFF ANALYSIS

Background and Summary of the Mandate

This Statewide Cost Estimate (SCE) addresses the State’s subvention costs for the mandated activities arising from Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 (AB 953); Statutes 2017, chapter 328 (AB 1518) and California Code of Regulations, Title 11, sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229 as added by Register 2017, No. 46⁴ (test claim statutes and regulations). The Commission found that the test claim statutes and regulations impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Specifically, the Commission found a mandate imposed on “city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) to electronically report to the Attorney General, on an annual basis, data on all “stops” within their own jurisdiction, conducted by the agency’s peace officers; and on those city and county law enforcement agencies that contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.”⁵ The Decision and Parameters and Guidelines specify the reimbursable activities.⁶

On September 25, 2020, the Commission adopted the Decision and Parameters and Guidelines for claiming costs incurred beginning November 7, 2017.⁷

The State Controller’s Office (Controller) issued claiming instructions on December 22, 2020.⁸ Eligible claimants were required to file initial reimbursement claims with the Controller for costs incurred beginning November 7, 2017, through June 30, 2018, for fiscal year 2017-2018 and for fiscal years 2018-2019, and 2019-2020 by April 21, 2021.⁹ Late initial reimbursement claims may be filed until April 21, 2022, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.¹⁰ Annual reimbursement claims for subsequent fiscal years, starting with 2020-2021, must be filed with the Controller by February 15 following

⁴ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

⁵ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, page 4.

⁶ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, pages 15-19.

⁷ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, page 3.

⁸ Exhibit C, Controller’s Claiming Instructions Program No. 375, page 1.

⁹ Exhibit C, Controller’s Claiming Instructions Program No. 375, pages 1-2; Government Code section 17561(d)(1)(A).

¹⁰ Government Code section 17561(d)(3).

the fiscal year in which costs were incurred.¹¹ Claims filed more than one year after the deadline will not be accepted, and late annual claims filed within one year of the deadline will incur a 10 percent late filing penalty not to exceed \$10,000.¹²

During the test claim process, the claimant filed evidence regarding its alleged increased costs, most but not all of which are tied to the activities found by the Commission to be reimbursable. The claimant also provided a statewide cost estimate (as required by Government Code 17553(a)(1)(E)) of \$18 million in costs for the law enforcement agencies in “Wave 1” and “Wave 2” for fiscal year 2018-2019.¹³ The claimant based its estimate on its own costs and relative size compared to other departments in Waves 1 and 2 and on the analysis from the Department of Justice (DOJ) Fiscal Impact Statement Addendum.¹⁴

Additionally, in its bill analysis for the test claim statute, the Senate Committee on Appropriations found that this mandate would impose “major one-time and ongoing costs, potentially in the tens of millions of dollars annually to local law enforcement agencies for data collection, reporting, and retention requirements specified in the bill. Additional costs for training on the process would likely be required.”¹⁵ The Senate Committee on Appropriations further stated “while costs could vary widely, for context, the Commission on State Mandates' statewide cost estimate for Crime Statistics Reports for the DOJ reflects eligible reimbursement of over \$13.6 million per year for slightly over 50 percent of local agencies reporting.”¹⁶

For the reasons discussed below, the Commission finds that the costs for this program are \$25,523,241 for the initial reimbursement period of 2017-2018 through 2019-2020 and are estimated to be from \$10,792,578 to \$11,764,238, for fiscal year 2020-2021. Costs are projected to significantly increase by approximately 12.5 percent in 2021-2022 and 25 percent in 2022-2023, when Wave 3 will first claim for a full fiscal year and Wave 4 will be required to begin collecting and reporting stop data. Thereafter, it is anticipated that costs will reduce (based on the ending or minimization of one-time costs) and stabilize going forward.

Eligible Claimants and Period of Reimbursement

Any city, county, city and county, is eligible to claim reimbursement for increased costs incurred as a result of this mandate for the city or county’s law enforcement agencies that meet the following criteria:

¹¹ Government Code section 17560(a).

¹² Government Code section 17568.

¹³ Exhibit B, Test Claim, filed June 14, 2019 (Narrative), pages 16-17.

¹⁴ Exhibit B, Test Claim, filed June 14, 2019 (Narrative), pages 16-17 and (DOJ Fiscal Impact Statement Addendum), pages 100-121.

¹⁵ Exhibit G (1), Senate Committee on Appropriations Committee Bill Analysis for AB 953, as amended June 30, 2015, page 1.

¹⁶ Exhibit G (1), Senate Committee on Appropriations Committee Bill Analysis for AB 953, as amended June 30, 2015, page 1.

- Employ peace officers (other than probation officers and officers in a custodial setting) to perform the requirements of the test claim statute and regulations for stops within their own jurisdictions; *or*
- Contract for peace officers from other cities or counties in order to carry out their basic and essential function of providing police protection services in their jurisdictions.

K-12 school districts and community college districts are not eligible to claim for this program. Cities and counties may not claim the costs of their peace officer employees that are incurred while they are assigned out to work for other government or private entities based on a contract or memorandum of understanding.¹⁷

Government Code section 17557(e) 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 claimant filed the Test Claim on June 14, 2019, establishing eligibility for reimbursement for the 2017-2018 fiscal year, beginning July 1, 2017.¹⁸ However, the regulations adopted by DOJ to implement section 12525.5 (Cal. Code Regs., tit. 11, §§ 999.224 through 999.229, Register 2017, No. 46) became operative and effective on November 7, 2017,¹⁹ establishing the period of reimbursement beginning November 7, 2017.²⁰

Additionally, the mandated ongoing activities B.2.- B.5. began on or before July 1, 2018 (FY 2018-2019) for Wave 1 agencies, on or before January 1, 2019 (FY 2018-2019) for Wave 2 agencies, on or before January 1, 2021 (2020-2021) for Wave 3 agencies, and on or before January 1, 2022 (FY 2021-2022) for Wave 4 agencies.²¹

Reimbursable Activities

The Parameters and Guidelines authorize reimbursement as follows:²²

A. One-Time Activities

1. One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities listed in Section IV.B. of these Parameters and Guidelines.
2. One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.

¹⁷ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, pages 13-14.

¹⁸ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, page 14.

¹⁹ The Legislature, in Government Code section 12525.5(a)(2) and (e), delayed local agency compliance with the program to a date after the regulations were required to be adopted.

²⁰ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, page 14.

²¹ Government Code section 12525.5(a)(2).

²² Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, pages 15-19.

B. Ongoing Activities

1. Identification of the peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number.
 - a. On January 1 of each year until the agency begins reporting data to the DOJ, each reporting agency shall count the number of peace officers it employs who are required to report stops to determine the date that agency must start collecting stop data and reporting to the DOJ pursuant to Government Code section 12525.5(a)(1)(2). (Cal. Code Regs, tit. 11, § 999.227(a)(8) [Register 2017, No. 46].)
 - b. Reporting agencies shall create the Officer's I.D. Number for each officer required to report stops. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
 - c. Reporting agencies shall maintain a system to match an individual officer required to report stops to his or her Officer's I.D. Number. (Cal. Code Regs, tit. 11, § 999.227(a)(11) [Register 2017, No. 46].)
2. Collection and reporting data on all stops, as defined,²³ conducted by that agency's peace officers for the preceding calendar year in accordance with sections 999.226(a) and 999.227 of the regulations.
 - a. Begin collecting and reporting data on all stops on or before the following dates (Gov. Code, § 12525.5(a)(2), Stats. 2017, ch. 328):
 - (1) An agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019.
 - (2) An agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020.
 - (3) An agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022.
 - (4) An agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

²³ See Government Code section 12525.5(g)(2) (Stats.2015, ch.466) and California Code of Regulations, title 11, section 999.224(a)(14) (Register 2017, No. 46), which define a "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control;" section 999.227(b) and (c) for interactions that are not reportable as "stops;" and section 999.227(d) for peace officer interactions that are reportable only if the officer takes additional specified actions.

The following are **not** reportable:

- Data elements described in section 999.226(a) for passengers in vehicles subject to a stop who have not been observed or suspected of violating the law, or who have not been subjected to the officer's actions listed in section 999.226(a)(12)(A), excluding "Vehicle impounded" and "None."²⁴
- Stops made during public safety mass evacuations.²⁵
- Stops during an active shooter incident.²⁶
- Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from the screening.²⁷
- The following interactions are **not** reportable unless a person is detained based upon individualized suspicion or personal characteristics, or the officer engages in the actions described in the data values in section 999.226(a)(12)(A)(1)-(22): Interactions during: traffic control of vehicles due to a traffic accident or emergency situation that requires that vehicles are stopped for public safety purposes; any type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes; interactions during which persons are detained at a residence so that the officer may check for proof of age for purposes of investigating underage drinking; and checkpoints and roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.²⁸
- Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition.²⁹
- Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment.³⁰
- Stops in a custodial setting.³¹

²⁴ California Code of Regulations, title 11, section 999.227(b) (Register 2017, No. 46).

²⁵ California Code of Regulations, title 11, section 999.227(c)(1) (Register 2017, No. 46).

²⁶ California Code of Regulations, title 11, section 999.227(c)(2) (Register 2017, No. 46).

²⁷ California Code of Regulations, title 11, section 999.227(c)(3) (Register 2017, No. 46).

²⁸ California Code of Regulations, title 11, section 999.227(d)(1).

²⁹ California Code of Regulations, title 11, section 999.227(d)(2) (Register 2017, No. 46).

³⁰ California Code of Regulations, title 11, section 999.227(d)(3) (Register 2017, No. 46).

³¹ California Code of Regulations, title 11, section 999.225(c) (Register 2017, No. 46).

- Stops that occur while the officer is off-duty.³²
- b. The agency’s peace officers shall collect the following required categories of stop data, and all applicable “data elements,” “data values,” and narrative explanatory fields described in section 999.226(a) for every person stopped, and in accordance with section 999.227(a)(4)-(6), (b) and (d) of the regulations, and complete all stop reports for stops made during the officer’s shift by the end of the officer’s shift, or if exigent circumstances preclude doing so, as soon as practicable: (Gov. Code, §12525.5(b), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, §§999.226(a), 999.227(a)(1)(2)(4)(5)(6)(9), (b) and (d) [Register 2017, No. 46].)
- (1) “ORI number,” which is “the data element that refers to the reporting agency’s Originating Agency Identifier, a unique identification code number assigned by the Federal Bureau of Investigation.” (Cal Code Regs., tit. 11, § 999.226(a)(1) [Register 2017, No. 46].)
 - (2) “Date, Time, and Duration of Stop.” (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(2) [Register 2017, No. 46].)
 - (3) “Location of Stop.” (Gov. Code, §12525.5(b)(1), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(3) [Register 2017, No. 46].)
 - (4) “Perceived Race or Ethnicity of Person Stopped.” (Gov. Code, § 12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(4) [Register 2017, No. 46].)
 - (5) “Perceived Gender of Person Stopped.” (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(5) [Register 2017, No. 46].)
 - (6) “Person Stopped Perceived to be LGBT.” (Cal Code Regs., tit. 11, § 999.226(a)(6) [Register 2017, No. 46].)
 - (7) “Perceived Age of Person Stopped.” (Gov. Code, §12525.5(b)(6), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(7) [Register 2017, No. 46].)
 - (8) “Person Stopped Has Limited or No English Fluency.” (Cal Code Regs., tit. 11, § 999.226(a)(8) [Register 2017, No. 46].)
 - (9) “Perceived or Known Disability of Person Stopped.” (Cal Code Regs., tit. 11, § 999.226(a)(9) [Register 2017, No. 46].)
 - (10) “Reason for Stop.” (Gov. Code, §12525.5(b)(2), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(10) [Register 2017, No. 46].)
 - (11) “Stop Made in Response to a Call for Service.” (Cal Code Regs., tit. 11, § 999.226(a)(11) [Register 2017, No. 46].)

³² Citation to the Test Claim Decision, included in the Parameters and Guidelines, omitted.

- (12) “Actions Taken by Officer During Stop.” (Gov. Code, §12525.5(b)(7), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(12) [Register 2017, No. 46].)
 - (13) “Result of Stop.” (Gov. Code, §12525.5(b)(3)(4)(5), Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.226(a)(13) [Register 2017, No. 46].)
 - (14) “Officer's Identification (I.D.) Number.” (Cal Code Regs., tit. 11, § 999.226(a)(14) [Register 2017, No. 46].)
 - (15) “Officer's Years of Experience.” (Cal Code Regs., tit. 11, § 999.226(a)(15) [Register 2017, No. 46].)
 - (16) “Type of Assignment of Officer.” (Cal Code Regs., tit. 11, § 999.226(a)(16) [Register 2017, No. 46].)
- c. The following additional data values shall be reported for stops (as defined in section 999.227(e)(3) of the regulations) at a K-12 school: the name of the school where the stop took place; indicate if the stop is of a student, whether there is a perceived disability related to hyperactivity or impulsive behavior of the student, the possible conduct warranting discipline under the Education Code, whether there was an admission or written statement obtained from the student, whether the student is suspected of violating school policy, and whether the student was referred to a school administrator or counselor. (Cal Code Regs., tit. 11, § 999.227(e)(3)(4) [Register 2017, No. 46].)
- 3. Electronic submission of data to DOJ and retention of stop data collected
 - a. Submit all required stop data to the system developed by the DOJ in electronic format that complies with the DOJ interface specifications via one of the three approved submission methods: (1) a web-browser based application developed by the DOJ; (2) a system-to-system web service; and (3) a secured file transfer protocol. (Cal Code Regs., tit. 11, § 999.228(a), (b) [Register 2017, No. 46].)
 - b. Authorize and remove users to the system as necessary. Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release. (Cal Code Regs., tit. 11, § 999.228(e) [Register 2017, No. 46].)
 - c. Each reporting agency, *except* those agencies that report stop data via the DOJ web-browser based application, shall keep a record of its source data for three years and to make it available for inspection by DOJ. (Cal Code Regs., tit. 11, § 999.228(h) [Register 2017, No. 46].)
 - 4. Audits and validation of data collected
 - a. Ensure that the technical specifications for data values are consistent with the regulations and follow the data dictionary prepared by DOJ. (Cal Code Regs., tit. 11, § 999.224(a)(5) [Register 2017, No. 46].)
 - b. Ensure that all data elements, data values, and narrative explanatory fields conform to the regulations and correct any errors in the data submission process

through the DOJ's error resolution process. (Cal Code Regs., tit. 11, § 999.229(b) [Register 2017, No. 46].)

- c. Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop, so that DOJ can use the record number to relay information on errors when necessary. (Cal Code Regs., tit. 11, § 999.229(c) [Register 2017, No. 46].)
5. For stop data collected, ensure that the name, address, social security number, or other unique personally identifiable information of the individual stopped, searched, or subjected to property seizure, and the badge number or other unique identifying information of the peace officer involved, is not transmitted to the Attorney General in an open text field. (Gov. Code, § 12525.5, Stats. 2015, ch. 466; Cal Code Regs., tit. 11, § 999.228(d) [Register 2017, No. 46].)

Offsetting Revenues and Reimbursements.

The Parameters and Guidelines provide the following:

Any offsetting revenue 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 applicable state funds, shall be identified and deducted from any claim submitted for reimbursement.³³

Statewide Cost Estimate

Commission staff reviewed the 157 reimbursement claims submitted by 60 cities, 8 counties, and zero cities and counties, and data compiled by the Controller for the initial reimbursement period.³⁴ The unaudited reimbursement claims data compiled by claimant totals \$1,414,407 for the partial fiscal year of 2017-2018, \$12,884,394 for fiscal year 2018-2019, and \$11,224,440 for fiscal year 2019-2020 totaling \$25,523,241 for the initial reimbursement period.³⁵

Initial Reimbursement Period

The statewide cost for the initial reimbursement period, is \$25,523,241, the total amount of timely and late filed, unaudited claims for fiscal years 2017-2018, 2018-2019, and 2019-2020, less a 10 percent late filing penalty of \$1,594 on three late claims. The costs segregated by activity, are as follows:

³³ Exhibit A, Decision and Parameters and Guidelines, adopted September 25, 2020, page 22.

³⁴ Exhibit D, Claims data reported as of May 19, 2021.

³⁵ Exhibit D, Claims data reported as of May 19, 2021 (note that the total above includes the following \$26,294 in additional costs not reflected in Exhibit D: one late claim filed by the City of Norco for fiscal year 2018-2019 (\$5,664), one late claim filed by the City of Norco for fiscal year 2019-2020 (\$4,901), and one late claim filed by the City of Riverside for fiscal year 2019-2020 (\$3,776), and, indirect costs of \$11,953 omitted by the County of Fresno on its cover sheet, but included in the claim detail).

\$1,526,219	Activity A.1. (One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities)
\$1,085,884	Activity A.2. (One-time installation and testing of software)
\$6,716 ³⁶	Activity B.1. (Identification of peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number)
\$14,919,313	Activity B.2. (Collection and reporting data on all stops)
\$787,876 ³⁷	Activity B.3. (Electronic submission of data to DOJ and retention of stop data collected)
\$731,856 ³⁸	Activity B.4. (Audits and validation of data collected)
\$43,861 ³⁹	Activity B.5. (For stop data collected, ensure identities of the individual and the peace officer involved are not transmitted to the Attorney General in an open text field)
\$6,423,110	Indirect Costs
\$0 ⁴⁰	Offsetting Revenues
(\$1,594)	Less 10 Percent Late Filing Penalty ⁴¹
\$25,523,241	Total Costs for the Initial Reimbursement Period

³⁶ During the initial reimbursement period, only two local agencies claimed costs for activity B.1: City of San Jose for FY 2018-2019 and 2019-2020 and City of Bakersfield for FY 2019-2020.

³⁷ During the initial reimbursement period, only 7 local agencies claimed costs for activity B.3: County of Riverside for all three FYs; City of Sacramento, City of San Diego, City of San Jose, and County of San Diego for 2018-2019 and 2019-2020; and City of Bakersfield and County of Orange for fiscal year 2019-2020. All but City of Bakersfield are in either Wave 1 or 2.

³⁸ The City of Oakland provided only a number of hours and no dollar amount for activity B.4. and indicated this activity was claimed as part of its indirect costs: fiscal year 2018-2019 (96 hours), and fiscal year 2019-2020 (40 hours).

³⁹ During the initial reimbursement period, only two local agencies claimed costs for activity B.5: City of San Diego, FYs 2018-2019 and 2019-2020 and City of Bakersfield FY 2019-2020.

⁴⁰ No offsetting revenues were reported in any claims filed during the initial reimbursement period.

⁴¹ Only three claims were filed late and assessed the following penalties: City of Norco \$629 for 2018-2019 and \$545 for 2019-2020 and City of Riverside \$420 for 2019-2020.

Fiscal Year 2020-2021

The statewide cost estimate for annual state liability for this program for fiscal year 2020-2021 is estimated at \$10,792,578- \$11,763,910, based on actual claiming data for 2020-2021. The low end of the estimated costs is based on the actual costs claimed for 2020-2021, including three late claims filed as of May 16, 2022.⁴² The high end of the estimated costs assumes that an additional 10 percent of costs already claimed may be claimed in additional late claims filed on or before February 15, 2023. The range of costs by activity is estimated as follows:

\$653,892- \$719,281	Activity A.1. (One-time training per peace officer employee and supervisor assigned to perform the reimbursable activities)
\$1,127,827- \$1,240,610	Activity A.2. (One-time installation and testing of software)
\$31,700- \$34,870	Activity B.1. (Identification of peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number)
\$6,060,511- \$6,666,562	Activity B.2. (Collection and reporting data on all stops)
\$320,524 - \$352,576	Activity B.3. (Electronic submission of data to DOJ and retention of stop data collected)
\$354,050- \$389,455	Activity B.4. (Audits and validation of data collected)
\$99,412- \$109,353	Activity B.5. (For stop data collected, ensure identities of the individual and the peace officer involved are not transmitted to the Attorney General in an open text field)
\$2,148,301- \$2,363,131	Indirect Costs
\$0	Offsetting Revenues ⁴³
(\$3,639) – (\$111,601)	Less 10 Percent Late Filing Penalty ⁴⁴
\$10,792,578- \$11,763,910	Estimated Costs for 2020-2021

Assumptions

Based on the claims data and other publically available information, staff made the following assumptions and used the following methodology to develop the Statewide Cost Estimate for this program.

- *The total amount claimed for the initial reimbursement period may increase as a result of late or amended initial claims.*

⁴² Exhibit E, Claims Data reported as of May 16, 2022.

⁴³ None of the claims filed for 2020-2021 included offsetting revenue. This estimate makes no assumptions regarding offsetting revenues or reimbursements for additional late claims or future fiscal years.

⁴⁴The high end is the 10 percent late fee on the estimated additional late claims amounting to 10 percent of the actual costs already claimed, plus the late fee for the claims already filed, rounded to the dollar.

There are approximately 481 cities, 57 counties, 1 city and county,⁴⁵ each of which will eventually incur costs for this program, when it is fully implemented in 2022-2023. And, there are a total of 415 city and county law enforcement agencies (LEAs) who will eventually be required to implement the mandated requirements. Some of these city and county law enforcement agencies are contracted out to perform law enforcement duties for other jurisdictions and it is unknown exactly how many cities and counties contract out for their law enforcement.

Per the Test Claim, there were only seven city and county law enforcement agencies in Wave 1 subject to the mandate for fiscal year 2017-2018.⁴⁶ Seven additional city and county law enforcement agencies in Wave 2 became subject to the mandate in fiscal year 2018-2019,⁴⁷ for a total of 14 city and county law enforcement agencies required to implement the mandate in the initial claiming period. And there will also be a total of 14 city and county law enforcement agencies required to implement the mandated program in the following fiscal year of 2019-2020.⁴⁸

However, a cross-reference between two data sets provided by the DOJ, the OpenJustice Data Portal, Agency Name – Jurisdiction Listing data set that “provides mapping information between the NCIC code, agency name, and the years the agency actively reported”⁴⁹ and the Law Enforcement Personnel data set for which the DOJ “collects the Law Enforcement Personnel data through a one-day survey taken on October 31st of each reporting year”⁵⁰ reveals the following.⁵¹

⁴⁵ For the purposes of this analysis, the City and County of San Francisco is added to the total number of counties (58) and is included in the averages as a county.

⁴⁶ Exhibit B, Test Claim, filed June 14, 2019 (Narrative), page 16.

⁴⁷ Exhibit B, Test Claim, filed June 14, 2019 (Narrative), page 16. Please note that the list of Wave 2 agencies provided by the claimant in the Test Claim omitted the Sacramento Police Department, which when added makes for a total of 7 agencies in Wave 2.

⁴⁸ Exhibit B, Test Claim, filed June 14, 2019 (Narrative), pages 16-17. Please note that the list of Wave 2 agencies provided by the claimant in the Test Claim omits the Sacramento Police Department, for a total of 7 agencies in Wave 2.

⁴⁹ Exhibit G (2), DOJ, OpenJustice Data Portal, <https://openjustice.doj.ca.gov/data> (accessed on May 26, 2021).

⁵⁰ Exhibit G (2), DOJ, OpenJustice Data Portal, <https://openjustice.doj.ca.gov/data> (accessed on May 26, 2021).

⁵¹ Exhibit G (3), DOJ Law Enforcement Agency Number of Sworn Non-Jail Personnel per Agency in Waves 1-3 of RIPA Reported as of 2017, 2018, and 2019, <https://openjustice.doj.ca.gov/data> (accessed on May 26, 2021). Please note that the CA CHP and the Capital DPR are not eligible claimants for this program but are provided to explain the inconsistency in the number of agencies provided in the Test Claim by the DOJ as its estimates did not isolate state from local agencies or account for the size of agencies to change during the implementation period.

WAVE	AGENCY NAME	COUNTY	NCIC CODE	FUNDED NON-JAIL SWORN PERSONNEL 2017 ⁵²	FUNDED NON-JAIL SWORN PERSONNEL 2018	FUNDED NON-JAIL SWORN PERSONNEL 2019
1 (1000+)	City of Los Angeles	Los Angeles	1942	9920	9923	9947
1 (1000+)	CA CHP	Sacramento	3499	7401	7286	7230
1 (1000+)	LA County Sheriff	Los Angeles	1900	6541	6502	6647
1 (1000+)	City of San Francisco	San Francisco	3801	2332	2306	2279
1 (1000+)	City of San Diego	San Diego	3711	1752	1731	1764
1 (1000+)	Riverside County Sheriff	Riverside	3300	1466	1077	1453
1 (1000+)	San Diego County Sheriff	San Diego	3700	1400	1384	1400
1 (1000+)	San Bernardino County Sheriff	San Bernardino	3600	1251	1312	1314
1 (1000+)	City of San Jose	Santa Clara	4313	940	1113	1150
1 (1000+)	Orange County Sheriff	Orange	3000	1079	1077	1090
2 (667-999)	Sacramento County Sheriff	Sacramento	3400	688	871	865
2 (667-999)	City of Long Beach	Los Angeles	1941	794	819	809
2 (667-999)	City of Fresno	Fresno	1005	786	811	806
2 (667-999)	City of Oakland	Alameda	109	744	731	740

⁵² Please note that the City of San Jose would have been classified as Wave 2 in 2017 and met the requirements of Wave 1 in 2018; the City of Sacramento would have been classified as Wave 3 in 2017 and 2018 and met the requirements of Wave 2 in 2019; the County of Kern would have been classified as Wave 4 in 2017 but met the requirements of Wave 3 in 2018 and 2019; and the City of Santa Ana would have been classified as Wave 4 in 2017 and 2018 but met the requirements for Wave 3 in 2019. All other jurisdictions in Waves 1, 2, and 3 remained in the same Wave during the initial reporting period.

WAVE	AGENCY NAME	COUNTY	NCIC CODE	FUNDED NON-JAIL SWORN PERSONNEL 2017 ⁵²	FUNDED NON-JAIL SWORN PERSONNEL 2018	FUNDED NON-JAIL SWORN PERSONNEL 2019
2 (667-999)	City of Sacramento	Sacramento	3404	644	651	678
3 (334-666)	Alameda County Sheriff	Alameda	100	559	515	522
3 (334-666)	Capital DPR	Sacramento	3422	523	493	493
3 (334-666)	Santa Clara County Sheriff	Santa Clara	4300	455	475	481
3 (334-666)	City of Stockton	San Joaquin	3905	441	469	459
3 (334-666)	Ventura County Sheriff	Ventura	5600	462	467	449
3 (334-666)	Fresno County Sheriff	Fresno	1000	402	420	403
3 (334-666)	City of Anaheim	Orange	3001	397	396	395
3 (334-666)	City of Bakersfield	Kern	1502	364	398	380
3 (334-666)	City of Riverside	Riverside	3313	350	370	366
3 (334-666)	San Francisco County Sheriff	San Francisco	3800	399	353	361
3 (334-666)	Kern County Sheriff	Kern	1500	325	337	343
3 (334-666)	City of Santa Ana	Orange	3019	325	313	339

In sum, in October 2017, there were eight Wave 1 local agencies, and as of October 2018 and October 2019 there were nine Wave 1 local agencies. Further, in October 2017 and October 2018 there were four Wave 2 local agencies and as of October 2019 there were five Wave 2 local agencies. Therefore, for the initial reimbursement period, fiscal years 2017-2018, 2018-2019, and 2019-2020 there were 14 local Wave 1 and 2 local agencies, required to implement activities A.1., A.2., and B.1.

In addition, for fiscal year 2018-2019, there were nine Wave 1 and four Wave 2 for a total of 13 local agencies also eligible to claim costs for activities B.2., - B.5. Finally, for fiscal year 2019-2020, there were nine Wave 1 and five Wave 2 for a total of 14 local agencies also eligible to claim costs for activities B.2., - B.5.

For fiscal year 2020-2021, there will be 11 agencies in Wave 3 subject to the stop data requirements and presumably also claiming for activities A.1., A. 2., and B.1., based on the numbers of sworn personnel provided to the DOJ for 2019 and then for fiscal year 2021-2022 all of the approximately 415 city and county LEAs in all four waves will be required to implement the mandate and all 539 cities and counties will be eligible to claim costs for all activities.

Twelve of the 14 eligible claimants subject to activities B.2., - B.5., in the initial reimbursement period, six Wave 1 local agencies and six Wave 2 local agencies, and 49 cities that contract with Wave 1 agencies for law enforcement services filed timely claims for the initial reimbursement period. And, the remaining claimant in Wave 1, the City of San Francisco, and the remaining claimant in Wave 2, the City of Long Beach, did not file late claims by the April 21, 2022 deadline to do so. Only the cities of Norco and Riverside submitted late claims for the initial reimbursement period, totaling \$15,935, and reduced by a late penalty of 10 percent (\$1,594).⁵³

Although, one Wave 3 and one Wave 4 local agency submitted claims for 2018-2019 and four Wave 3 and one Wave 4 local agencies submitted claims for 2019-2020, these costs totaled only \$306,008 or 12 percent of the total costs claimed in the initial reimbursement period. The test claim statute requires that Wave 3 and Wave 4 agencies begin collecting and reporting stop data “on or before” the specified date (January 1, 2021 for Wave 3) and therefore those agencies that implement before the date are eligible for reimbursement. However, the overwhelming majority of Wave 3 and Wave 4 agencies did not implement the program or file timely or late claims for the initial claiming period before the deadline for late claims.

There may be several reasons that eligible agencies did not file reimbursement claims during the initial claiming period, including but not limited to the following: they did not incur costs of more than \$1,000 during a fiscal year; or they had a relatively low number of stops in a given fiscal year; they completed installation and testing of software necessary to comply with the program prior to the beginning of the reimbursement period; or they determined that it was not cost-effective to participate in the reimbursement claim process.

⁵³ Government Code sections 17561(d)(3).

- *The costs for this program may be lower than the Statewide Cost Estimate based on the Controller’s audit findings.*

The Controller may conduct audits and reduce any claim it deems to be excessive or unreasonable. Therefore, costs may be lower than the Statewide Cost Estimate based on the audit findings.

- *Future annual costs will increase due to Wave 3 and Wave 4 jurisdictions becoming subject to the stop data reporting requirements in 2020-2021 and 2021-2022, respectively.*

The test claim statute requires that Wave 3 and Wave 4 agencies begin collecting and reporting stop data “on or before” the specified date (July 1, 2021 for Wave 3) and therefore those agencies that implement before the date are eligible for reimbursement. However, the overwhelming majority of Wave 3 and Wave 4 agencies did not implement the program or file claims for the initial claiming period. However, Wave 3 began collecting and reporting stop data in 2020-2021 as will Wave 4 in 2021-2022, and that will significantly increase the annual costs.

Waves 3 and 4 make up the majority of the LEA jurisdictions, and about half of the sworn officers in California that perform the mandated activities. The costs for Wave 3 LEAs are being claimed in annual claims, beginning with 2020-2021 for the first six months of implementation, and costs will peak with the 2022-2023 claims, when all agencies including Wave 4 LEAs will have a full fiscal year of costs for collecting and reporting stop data.

Estimates of the number of agencies in each Wave and of sworn personnel were updated in the recent RIPA Board Reports issued in 2020 and 2021 and provide the following:⁵⁴

Reporting Wave	Size of Agency	Data Collection Begins	Data Must be Reported to DOJ	Approximate Number of Agencies⁵⁵
1	1,000	July 1, 2018	April 1, 2019	8
2	667-999	Jan. 1, 2019	April 1, 2020	7
3	334-666	Jan. 1, 2021	April 1, 2022	10
4	1-333	Jan. 1, 2022	April 1, 2023	400+

Also, the 2020 RIPA Board Report and the 2021 RIPA Board Report provide its updated summary of the agencies and numbers of sworn personnel, in waves 1 2, and 3:⁵⁶

⁵⁴ Exhibit G (5), RIPA Board Report 2020, page 19; Exhibit G (6), RIPA Board Report 2021, page 23.

⁵⁵ Please note that these numbers do not distinguish between state and local agencies. Specifically, CHP is included in Reporting Wave 1.

⁵⁶ Exhibit G (5), RIPA Board Report 2020, pages 77-78; Exhibit G (6), RIPA Board Report 2021, page 17. Note that CHP and the Los Angeles World Airport Police have been omitted, the tables from both reports have been combined, and totals have been added, both RIPA Board Reports indicate that the numbers of sworn personnel are from the same source as that provided

Reporting Wave	Agency	Total Complaints Received	Profiling Allegations Reported	Total Sworn Personnel
1	Los Angeles County Sheriff's Department	1,010	68	9,565
1	Los Angeles Police Department	2,205	426	10,002
1	Riverside County Sheriff's Department	33	0	1,788
1	San Bernardino County Sheriff's Department	113	39	1,927
1	San Diego County Sheriff's Department	214	74	2,601
1	San Diego Police Department	102	25	1,764
1	San Francisco Police Department	842	0	2,279
Wave 1 Total Sworn Personnel				29,926
2	Fresno Police Department	231	13	806
2	Long Beach Police Department	182	9	817
2	Oakland Police Department	1,215	36	740
2	Orange County Sheriff's Department	129	11	1,888
2	Sacramento County Sheriff's Department	205	5	1,348
2	Sacramento Police Department	146	6	678
2	San Jose Police Department	205	36	1,150
Wave 2 Total Sworn Personnel Total				7,427
3	Santa Clara County Sheriff's Office	30	2 (7%)	1,279
3	Alameda County Sheriff's Office	62	1 (2%)	939
3	San Francisco County Sheriff Department	66	1 (2%)	860
3	Kern County Sheriff's Office	142	3 (2%)	806
3	Ventura County Sheriff's Office	67	12 (18%)	760
3	Stockton Police Department	11	4 (36%)	469
3	Santa Barbara Sheriff's Office	27	3 (11%)	454
3	Anaheim Police Department	71	4 (6%)	419
3	Fresno County Sheriff's Office	38	11 (29%)	430
3	Bakersfield Police Department	49	0	398
3	Riverside Police Department	58	2 (3%)	370
Wave 3 Total Sworn Personnel Total				7,184
Waves 1-3 Sworn Personnel Total				44,537

earlier in this analysis, and that the RIPA Board Report 2020 does not specify the year associated with the numbers of sworn personnel provided in the table for Wave 3.

Compared to DOJ’s initial estimates provided to the Legislature in 2015, referred to in the Test Claim,⁵⁷ the 2020 and 2021 RIPA Board Reports’ data most recently available for 2019 reflects an overall 31 percent increase in the number of sworn personnel between 2015 and 2019 (or 7.75 percent growth annually). The distribution of sworn officers in each Wave, is as follows:

Wave	Agency Type	Agencies 2015	Agencies 2019	Sworn Officers 2015 ⁵⁸	Sworn Officers 2019 ⁵⁹
1	Local	8	7	25,772	29,926
2	Local	5	7	3,807	7,427
Wave 1-2 Total			14	29,579	37,353
3	Local	10	10	4,536	7,184
4	Local	392	400+	23,382	22,614 ⁶⁰
Wave 3-4 Total		402	410+	27,918	29,798
Waves 1-4 Total		415		57,497	67,151

- *The total amount that may be claimed for the one-time activities A.1., and B.1., for the initial reimbursement period and for future annual costs will increase before decreasing and then stabilizing when all costs for these activities will be as a result of turnover and growth.*

For the years for which data is available, the total number of sworn city and county peace officers has grown. The total growth in the numbers of sworn full-time law enforcement personnel between the years of 2014 and 2018 (4 years) for all police departments in California was 3.3 percent and for all Sheriff’s departments was 3.1 percent, the weighted average of which is .8 percent annually.⁶¹ The percentage of growth in the numbers of sworn full-time law enforcement personnel for police departments in 2018-2019 was about the same as the average for the prior years with police departments at .8 percent and sheriff’s departments at .7 percent, with a weighted average of .8 percent.⁶² Based on this data, we could assume an average of .8

⁵⁷ Exhibit B, Test Claim, filed June 14, 2019 (DOJ Fiscal Impact Statement Addendum), pages 100-121.

⁵⁸ Exhibit B, Test Claim, filed June 14, 2019 (DOJ Fiscal Impact Statement Addendum), page 106.

⁵⁹ Exhibit G (5), RIPA Board Report 2020 (Wave 3), pages 77-78; Exhibit G (6), RIPA Board Report 2021 (Waves 1 and 2), page 17.

⁶⁰ Exhibit G (4), DOJ Law Enforcement Agency Number of Sworn Non-Jail Personnel per Agency in 2019 (Wave 4), <https://openjustice.doj.ca.gov/data> (accessed on May 26, 2021), page 12.

⁶¹ Exhibit G (8), Crime in California 2019, Xavier Becerra, Attorney General, California Department of Justice, California Justice Information Services Division, Justice Data and Investigative Services Bureau, Criminal Justice Statistics Center, page 62, <https://data-openjustice.doj.ca.gov/sites/default/files/2020-06/Crime%20In%20CA%202019.pdf> (accessed on January 19, 2021).

⁶² Exhibit G (8), Crime in California 2019, Xavier Becerra, Attorney General, California Department of Justice, California Justice Information Services Division, Justice Data and

annual growth in the numbers of sworn city and county officers, based on the average growth rates over the years for which data is available.

Separate and apart from the issue of growth, total turnover rates for law enforcement (i.e. the number of officers that separated from their employer and whose positions were refilled) in the state of California were reported to be 9.19 percent in 2003 and 8.28 percent in 2008. Nationally, turnover rates varied considerably between rural areas (14.11 in 2003, 14.16 in 2008), suburban areas (9.89 in 2003 and 10.98 in 2008), and urban areas (7.57 in 2003 and 6.94 in 2008) and also between types of agency Municipal (11.59 in 2003 and 11.14 in 2008) and County (7.94 in 2003 and 9.23 in 2008).⁶³ For the purposes of this estimate, an 8.73 percent turnover rate is assumed based on the average turnover rate for California law enforcement in the years for which we have data available. Unlike growth, turnover is only eleventh to the one-time costs for activities A.1. and B.1.

Further, both growth and turnover rates of sworn law enforcement personnel will impact the number required to be trained (A.1.) and identified and put into a system that matches the individual officer to their Officers I.D. number (B.1.).

- *The future annual costs for this program will decrease and stabilize with the eventual minimization of costs for activities A.1., and B.1., beginning in fiscal year 2022-2023.*

The annual costs incurred for activity A.1., (one-time training per peace officer employee and supervisor assigned to perform the reimbursable activities) and B.1., (identification of peace officers required to report stops, and maintenance of a system to match individual officers to their Officer I.D. number) are not expected to end after the initial reimbursement period, because these activities will continue to be required to be completed as Wave 3 and 4 agencies comply with the mandate in 2020-2021 and 2021-2022.⁶⁴ In addition, activities A.1., and B.1., will continue after all agencies have complied and these costs are assumed to remain relatively stable, requiring the training and identification of peace officers required to report stops due to turnover and growth in the number of peace officer employees, based on the data available.

- *The future annual costs for this program will decrease with the eventual elimination of costs for activity A.2.*

The annual costs incurred for activity A.2., (one-time installation and testing of software) are not expected to end after the initial reimbursement period, because activity A.2., will continue to be required to be completed as additional agencies begin to comply with the mandate.⁶⁵ However,

Investigative Services Bureau, Criminal Justice Statistics Center, page 62, <https://data-openjustice.doj.ca.gov/sites/default/files/2020-06/Crime%20In%20CA%202019.pdf> (accessed on January 19, 2021).

⁶³ Exhibit G (9), Excerpt from the Jennifer Wareham et al, *Rates and Patterns of Law Enforcement Turnover: A Research Note*, 26-4 Criminal Justice Policy Review, 345 (2013), pages 2-5, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.846.1028&rep=rep1&type=pdf> (accessed on March 23, 2020).

⁶⁴ Government Code section 12525.5 (a)(2).

⁶⁵ Government Code section 12525.5 (a)(2).

the costs for activity A.2., (one-time installation and testing of software) will eventually be eliminated after all agencies have complied, likely by fiscal year 2022-2023.

- *The future annual costs for this program will increase with the eventual stabilization of costs for ongoing activities, in fiscal year 2022-2023.*

Based on this analysis, the bulk of costs during the initial reimbursement period and in annual claims going forward will likely be incurred to perform activity B.2., (collection and reporting data on all stops). The estimate originally provided to the Legislature by the DOJ and included in the Test Claim was based on the estimated number of officers performing stops, provided to the DOJ by POST in 2015, on a 2016 survey of law enforcement, and on the comments received from law enforcement agencies during the initial public comment period on the implementing regulations.⁶⁶ The number of officers and stops per year by agency type was estimated by the DOJ as follows:⁶⁷

Estimated Stops, by Agency Type			
Agency	Total Officers	Total Stops	Average Stops Per Officer
Sheriff	19,586	3,936,786	201
Other	38,710	10,000,000	258
Statewide Total	58,296	13,936,786	239

However, based on the actual stops reported for 2019, 239 stops per officer is a significant an overestimation of stops. The 2021 RIPA Board Report indicates the following:

The 15 largest law enforcement agencies in California, referred to as Wave 1 and Wave 2 agencies in this Report, collected data on pedestrian and vehicle stops and submitted these data to the Department. Reporting agencies collected data on 3,992,074 million stops between January 1, 2019 and December 31, 2019. The California Highway Patrol conducted the most stops (54.4%) of all reporting agencies, which was expected given the size and geographic jurisdiction of the agency and its primary mission with respect to highway safety.⁶⁸

Of the 3,992,074 stops conducted by Wave 1 and 2 agencies in 2019, 54 percent, or approximately 2,171,688 were conducted by CHP, leaving 1,820,385 stops actually conducted by Wave 1 and 2 local agencies in 2019. Further, the 2022 RIPA Board Report indicates a significant reduction in the number of stops between 2019 and 2020:⁶⁹

⁶⁶ Exhibit B, Test Claim, filed June 14, 2019 (DOJ Fiscal Impact Statement Addendum), page 107.

⁶⁷ Exhibit B, Test Claim, filed June 14, 2019 (DOJ Fiscal Impact Statement Addendum), page 107. Please note that the data regarding CHP has been omitted from this table.

⁶⁸ Exhibit G (6), RIPA Board Report 2021, page 9 (footnote omitted).

⁶⁹ Exhibit G (6), RIPA Board Report 2021, page 17; Exhibit G (7), RIPA Board Report 2022, page 28-29. This table reorders and omits non-Wave 1 and Wave 2 agencies.

Reporting Wave	Agency	# of Stops 2019	# of Stops 2020	Difference	% point difference from 2019
1	Los Angeles Police Department	712,807	521,426	-191,381	-26.8%
1	Los Angeles County Sheriff's Department	196,850	104,275	-92,575	-47.0%
1	San Diego Police Department	187,231	150,611	-36,620	-19.6%
1	San Bernardino County Sheriff's Department	157,715	109,024	-48,691	-30.9%
1	San Francisco Police Department	101,614	38,615	-62,999	-62.0%
1	San Diego County Sheriff's Department	65,029	38,824	-26,205	-40.3%
1	Riverside County Sheriff's Department	58,379	56,339	-2,040	-3.5%
	Total Stops Wave 1	1,479,625	1,019,114	-460,511	-28.76%
2	Sacramento Police Department	68,012	51,446	-16,566	-24.4%
2	Sacramento County Sheriff's Department	60,944	43,881	-17,063	-28.0%
2	Fresno Police Department	51,849	14,738	-37,111	-71.6%
2	Orange County Sheriff's Department	50,396	39,855	-10,541	-20.9%
2	San Jose Police Department	44,306	17,988	-26,318	-59.4%
2	Long Beach Police Department	40,524	17,210	-23,314	-57.5%
2	Oakland Police Department	24,395	21,076	-3,319	-13.6%
	Total Stops Wave 2	340,426	206,194	-134,232	-39.34%
	Total Stops Wave 1-2	1,820,051	1,225,308	-594,743	-34.05%

Based on this data, a rate of 49 stops per officer provides a closer estimate of the actual stops per sworn officer.⁷⁰ 1,820,051 stops conducted by 37,353⁷¹ officers averages 49 stops per officer for Waves 1 and 2 in 2019, and provides a closer estimate for Waves 3 and 4 and future costs as follows:

⁷⁰ Exhibit G (6), RIPA Board Report 2021, page 17; Exhibit G (7), RIPA Board Report 2022, page 28-29. This table reorders and omits non-Wave 1 and Wave 2 agencies.

⁷¹ Exhibit G (5), RIPA Board Report 2020, pages 77-78; Exhibit G (6), RIPA Board Report 2021, page 17.

Wave	Agency Type	Sworn Officers 2015 ⁷²	Estimated Stops 2015 ⁷³	Sworn Officers 2019 ⁷⁴	Estimated Stops in 2019 at 49 per Officer ⁷⁵
1	Local	25,772	6,159,508	29,926	1,466,374
2	Local	3,807	909,873	7,427	363,923
Wave 1-2 Total		29,579	7,069,381	37,353	1,830,297
3	Local	4,536	1,084,104	7,184	352,016
4	Local	23,382	5,588,298	22,614 ⁷⁶	1,108,086
Wave 3-4 Total		27,918	6,672,402	29,798	1,460,102
Waves 1-4 Total		57,497	13,741,783	67,151	3,290,399

The annual costs incurred for all ongoing activities will continue to increase as additional agencies begin to comply with the mandate.⁷⁷ In addition, costs for these activities, will stabilize and continue after all agencies have begun to comply, since this is an ongoing requirement of the program. Once the program is fully implemented, the costs for activities B.3., B.4., and B.5. are not expected to fluctuate significantly.

Draft Proposed Statewide Cost Estimate

On June 3, 2022, Commission staff issued the Draft Proposed Statewide Cost Estimate.⁷⁸ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Staff Recommendation

Staff recommends that the Commission adopt this Proposed Statewide Cost Estimate of \$25,523,241 for the initial reimbursement period of fiscal years 2017-2018, 2018-2019, and 2019-2020 and the estimated cost for fiscal year 2020-2021 of \$10,792,578- \$11,763,910.

⁷² Exhibit B, Test Claim, filed June 14, 2019 (DOJ Fiscal Impact Statement Addendum), page 106.

⁷³ Exhibit B, Test Claim, filed June 14, 2019 (DOJ Fiscal Impact Statement Addendum), page 107. Stops per officer are estimated based on 239 stops per officer, as estimated by the DOJ in 2015.

⁷⁴ Exhibit G (5), RIPA Board Report 2020, pages 77-78; Exhibit G (6), RIPA Board Report 2021, page 17.

⁷⁵ Exhibit G (6), RIPA Board Report 2021, page 17; Exhibit G (7), RIPA Board Report 2022, page 28-29. Stops per officer are estimated based on 49 stops per officer, as reported by Waves 1 and 2 data.

⁷⁶ Exhibit G (4), DOJ Law Enforcement Agency Number of Sworn Non-Jail Personnel per Agency in 2019 (Wave 4), <https://openjustice.doj.ca.gov/data> (accessed on May 26, 2021), page 12.

⁷⁷ Government Code section 12525.5 (a)(2).

⁷⁸ Exhibit F, Draft Proposed Statewide Cost Estimate, issued June 3, 2022.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 6, 2022, I served the:

- **Proposed Statewide Cost Estimate issued July 6, 2022**

Racial and Identity Profiling, 18-TC-02

Government Code Section 12525.5, as added and amended by Statutes 2015, Chapter 466 (AB 953); Statutes 2017, Chapter 328 (AB 1518); California Code of Regulations, Title 11, Sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, as added by Register 2017, No. 46¹

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 6, 2022 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

¹ Note that Register 2016, 50-2 was incorrectly cited in the test claim filing. The correct register is Register 2017, No. 46.

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/13/22

Claim Number: 18-TC-02

Matter: Racial and Identity Profiling

Claimant: City of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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