

**COMMISSION ON STATE MANDATES**

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September 11, 2012

Ms. Juliana Gmur  
1865 Hernden Avenue, Suite K-44  
Clovis, CA 93611

*And Interested Parties and Affected State Agencies (See Mailing List)*

**RE: Final Staff Analysis, Proposed Statewide Cost Estimate, and Notice of Hearing**  
*Identity Theft, 03-TC-08*  
Penal Code Section 530.6(a)  
Statutes 2000, Chapter 956  
City of Newport Beach, Claimant

Dear Ms. Gmur:

The final staff analysis and proposed statewide cost estimate for this matter are enclosed.

**Hearing**

This matter is set for hearing on **Friday, September 28, 2012** at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) 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.

Please contact Kerry Ortman at (916) 323-3562 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

**Item 15**  
**Final Staff Analysis**  
**Proposed Statewide Cost Estimate**

**\$67,703,120**

Penal Code Section 530.6(a)

Statutes 2000, Chapter 956

*Identity Theft*

(03-TC-08)

City of Newport Beach, Claimant

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This matter was rescheduled from July 27, 2012 to September 28, 2012. Except to reflect the date change, no other revisions were made to this document.

**STAFF ANALYSIS**

**Background and Summary of the Mandate**

The test claim statute requires local law enforcement agencies to take a police report and begin an investigation when a complainant residing within their jurisdiction reports suspected identity theft.

The claimant filed the test claim on September 25, 2003. The Commission on State Mandates (Commission) adopted a statement of decision on March 27, 2009, and parameters and guidelines on July 28, 2011.<sup>1</sup> The Commission found that the test claim statute imposes a reimbursable state-mandated program on local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002, and June 30, 2011) with the State Controller's Office (SCO) by January 30, 2012. Reimbursement claims for fiscal year 2010-2011 were due on February 15, 2012.

Eligible Claimants and Period of Reimbursement

Any city, county, or city and county whose law enforcement agency incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of these costs.

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 that fiscal year. The City of Newport Beach filed the test claim on September 25, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

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<sup>1</sup> Exhibit A.

## Reimbursable Activities

The Commission approved the following activities for reimbursement:

- Take a police report supporting a violation of Penal Code section 530.5 which includes information regarding the personal identifying information involved and any uses of that personal identifying information that were non-consensual and for an unlawful purpose, including, if available, information surrounding the suspected identity theft, places where the crime(s) occurred, and how and where the suspect obtained and used the personal identifying information; and,
- Begin an investigation of the facts, including the gathering of facts sufficient to determine where the crime(s) occurred and what pieces of personal identifying information were used for an unlawful purpose.

## Statewide Cost Estimate

### Assumptions

Staff reviewed the claims data submitted by cities and counties and compiled by the SCO. The actual claims data showed that 1,869 claims were filed for fiscal years 2002-2003 through 2010-2011 for a total of \$67,703,120.<sup>2</sup> Although the cost is significant, it may reflect the enormity of the identity theft problem in the state. For example, over a period of nine fiscal years, the City of Los Angeles took a total of 130,048 reports of identity theft for claimed costs of \$25,767,048, or about \$198 per report. This accounts for 38% of the costs claimed for the *Identity Theft* program. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 478 cities and 58 counties in California. Of those, only 38% of cities and 36% of counties filed reimbursement claims for this program for fiscal years 2002-2003 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program for fiscal years 2002-2003 through 2009-2010 may be filed until January 30, 2013. Late claims for fiscal year 2010-2011 may be filed until February 15, 2013.

- *There may be several reasons that non-claiming cities and counties did not file for reimbursement, including but not limited to:*

Cities and counties did not have supporting documentation to file a reimbursement claim.

- *The number of reimbursement claims filed will vary from year to year.*

This program requires local law enforcement agencies to take a police report and begin an investigation when a complainant residing within their jurisdiction reports suspected identity theft. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the number of identity theft incidents reports filed with local agencies.

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<sup>2</sup> Claims data reported as of April 3, 2012.

- *The large number of identity theft reports filed annually is making this a high cost program to implement.*

According to the Attorney General’s Office, identity theft is one of the fastest growing crimes in America. The Attorney General also reports that, according to the California Office of Privacy Protection, there were more than 8.1 million victims of identity theft in the United States in 2010, and more than one million of those victims were Californians.<sup>3</sup> In addition, a U.S. Federal Trade Commission report states that for every 100,000 people in California, there were 114 complaints from victims of identity theft that year.<sup>4</sup>

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

### Methodology

#### *Fiscal Years 2002-2003 through 2010-2011*

The statewide cost estimate for fiscal years 2002-2003 through 2010-2011 was developed by totaling the 1869 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes nine fiscal years for a total of \$67,703,120. This averages to \$7,522,569 annually in costs for the state for this nine year period. Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2002-2003	162	\$4,209,779
2003-2004	178	\$4,817,960
2004-2005	190	\$5,873,975
2005-2006	203	\$6,479,122
2006-2007	219	\$7,951,854
2007-2008	221	\$9,434,673
2008-2009	226	\$9,868,260
2009-2010	228	\$9,278,353
2010-2011	242	\$9,789,144
<b>TOTAL</b>	<b>1869</b>	<b>\$67,703,120</b>

<sup>3</sup> California Attorney General’s website: information on identify theft; at <http://oag.ca.gov/idtheft>.

<sup>4</sup> *Consumer Sentinel Network Data Book for January-December 2010*, <http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2010.pdf>.

### **Comments on Draft Staff Analysis and Proposed Statewide Cost Estimate**

Staff issued a draft staff analysis on June 15, 2012.<sup>5</sup> On June 26, 2012, the Department of Finance submitted comments stating that they no concerns with the Commission's recommendation to adopt the proposed statewide cost estimate.<sup>6</sup>

### **Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$67,703,120** for costs incurred in complying with the *Identity Theft* program.

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<sup>5</sup> Exhibit B.

<sup>6</sup> Exhibit C.

## Commission on State Mandates

Original List Date: 9/30/2003  
Last Updated: 6/15/2012  
List Print Date: 06/26/2012  
Claim Number: 03-TC-08  
Issue: Identity Theft

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

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, § 1181.2.)

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