

ITEM 14

PROPOSED STATEWIDE COST ESTIMATE FINAL STAFF ANALYSIS

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

Statutes 1995, Chapter 590

Statutes 2000, Chapter 289

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

County of San Bernardino, Claimant

EXECUTIVE SUMMARY

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

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

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

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

¹ Claims data reported as of November 3, 2005.

until October 4, 2006. However, according to claimant representatives, no late claims will be filed.

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

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

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

Table 2. Breakdown of Estimated Total Costs per Fiscal Year

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1999-2000	6	16,787
2000-2001	5	16,797
2001-2002	5	15,254
2002-2003	4	13,341
2003-2004	3	11,175
2004-2005	4	16,979
2005-2006 (estimated)	N/A	17,573
2006-2007 (estimated)	N/A	18,118
TOTAL	27	126,024

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

Staff Recommendation

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

² Exhibit A.

STAFF ANALYSIS

Summary of the Mandate

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

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

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

Reimbursement Period July 1, 1999 through December 31, 2000³:

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

A. One-Time Activity

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

B. On-going Activity

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

Reimbursement Period Begins January 1, 2001⁵:

Make the advisory available in multiple languages, utilizing the translations available from the state.⁶

C. One-Time Activities

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

³ Pursuant to Government Code section 17557, subdivision (c).

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

⁵ Pursuant to Government Code section 17557, subdivision (c).

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

D. Ongoing Activities

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

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The actual claims data showed that eight cities and two counties filed 28 claims between fiscal years 1999-2000 and 2004-2005, for a total of \$90,990. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

Assumptions

Staff made the following assumptions:

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

⁷ Penal Code section 148.6, subdivision (a)(2) and (a)(3).

⁸ Claims data reported as of November 3, 2005.

Methodology

Fiscal Years 1999-2000 through 2004-2005

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

Fiscal Years 2005-2006 and 2006-2007

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%).

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

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

Table 2. Breakdown of Estimated Total Costs per Fiscal Year

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On December 16, 2005, staff issued the proposed statewide cost estimate for comment. On January 5, 2006, the claimant responded that they concur with the draft staff analysis and proposed statewide cost estimate.⁹

Staff Recommendation

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

⁹ Exhibit A.

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AUDITOR/CONTROLLER-RECORDER COUNTY CLERK

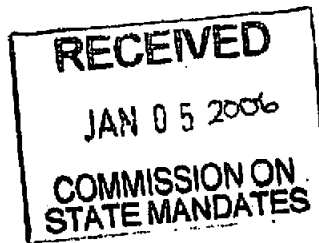


COUNTY OF SAN BERNARDINO

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San Bernardino, CA 92415-0022 • (909) 387-8308 • Fax (909) 386-8940

LARRY WALKER
Auditor/Controller-Recorder
County Clerk

ELIZABETH A. STARBUCK
Assistant Auditor/Controller-Recorder
Assistant County Clerk



January 4, 2006

Ms. Nancy Patton
Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

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

Dear Ms. Patton:

We have reviewed the Draft Staff Analysis and Proposed Statewide Cost Estimate for the False Reports of Police Misconduct dated December 16, 2005. The County of San Bernardino concurs with the draft staff analysis and proposed statewide cost estimate as written and has no further comment.

If you have any questions, please feel free to call me at (909) 386-8850.

Sincerely,

Bonnie Ter Keurst
Reimbursable Projects Section Manager

BTK:jp

Commission on State Mandates

Original List Date: 7/6/2001 Mailing Information: Other
 Last Updated: 6/8/2004
 List Print Date: 12/01/2005 Mailing List
 Claim Number: 00-TC-26
 Issue: False Reports of Police Misconduct

Related Matter(s)

02-TC-09 False Reports of Police Misconduct (K-14)

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.)

Ms. Annette Chinn
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 Fax: (916) 939-7801

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 9175 Kiefer Blvd, Suite 121
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 Fax: (916) 368-5723

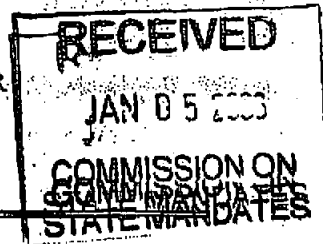
Ms. Susan Geanacou
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Ms. Bonnie Ter Keurst
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 222 West Hospitality Lane
 San Bernardino, CA 92415-0018
Claimant
 Tel: (909) 386-8850
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COUNTY OF SAN BERNARDINO
AUDITOR/CONTROLLER-RECORDER



FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Ms. Nancy Patton, Assistant Executive Director	Wendy Sulzmann/Debbie Pittenger (909) 386-8821 On behalf of Bonnie Ter Keurst Manager, Reimbursable Projects Section

COMPANY:	DATE:
Commission on State Mandates	1/5/06

FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
916-445-0278	5

PHONE NUMBER:	SENDER'S REFERENCE NUMBER:

RE:	YOUR REFERENCE NUMBER:
Proposed Statewide Cost Estimate False Reports of Police Misconduct 00-FC-26	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

222 W. HOSPITALITY LANE, SAN BERNARDINO, CA 92415-0018
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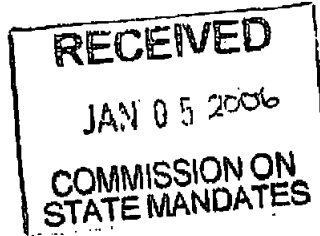
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January 4, 2006

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980 Ninth Street, Suite 300
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Commission on State Mandates

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Mr. Steve Keil California State Association of Counties 1100 K Street, Suite 101 Sacramento, CA 95814-3941	Tel: (916) 327-7523 Fax: (916) 441-5507
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Ms. Harmeet Barkschat Mandate Resource Services 6325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Fax: (916) 727-1734
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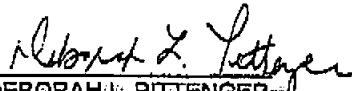
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Auditor/Controller-Recorder
County Clerk**ELIZABETH A. STARBUCK**
Assistant Auditor/Controller-Recorder
Assistant County Clerk**PROOF OF SERVICE**

I, the undersigned, declare as follows:

I am employed by the County of San Bernardino, State of California. My business address is 222 W. Hospitality Lane, San Bernardino, CA 92415. I am 18 years of age or older.

On January 5, 2006, I faxed and mailed the letter dated January 4, 2006 to the Commission on State Mandates in response to the Proposed Statewide Cost Estimate, False Reports of Police Misconduct, 00-TD-26, and I mailed it also to the other parties listed 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 January 5, 2006 at San Bernardino, California.


DEBORAH L. PITTENGER

