

September 29, 2020

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

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

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

Re: Decision and Parameters and Guidelines

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

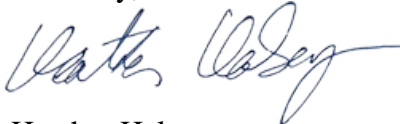
City of San Diego, Claimant

Dear Captain Jordon and Ms. Sidarous:

On September 25, 2020 the Commission on State Mandates adopted the Decision and Parameters and Guidelines on the above-captioned matter.

Please keep Decision and Parameters and Guidelines together as one document, as it together constitutes the entire decision of the Commission and the "Decision" portion informs the interpretation of the "Parameters and Guidelines." It is hoped that by providing the entire Decision and Parameters and Guidelines with the claiming instructions that claimants will be better equipped to correctly claim reimbursement, resulting in fewer reductions upon audit and fewer incorrect reduction claims.

Sincerely,



Heather Halsey
Executive Director

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

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

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

The period of reimbursement begins November 7, 2017.

Case No.: 18-TC-02

Racial and Identity Profiling

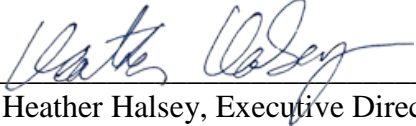
DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500 ET
SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted September 25, 2020)

(Served September 29, 2020)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Decision and Parameters and Guidelines on September 25, 2020.



Heather Halsey, Executive Director

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

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

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

The period of reimbursement begins November 7, 2017.

Case No.: 18-TC-02

Racial and Identity Profiling

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted September 25, 2020)

(Served September 29, 2020)

DECISION

The Commission on State Mandates (Commission) heard and decided the Decision and Parameters and Guidelines during a regularly scheduled hearing on September 25, 2020. Captain Jeffrey Jordon of the City of San Diego Police Department appeared on behalf of the City of San Diego (claimant). Chris Hill and Brittany Thompson appeared on behalf of the Department of Finance (Finance).

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision and Parameters and Guidelines by a vote of 7-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Andre Rivera, Representative of the State Treasurer, Vice Chairperson	Yes

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

Jacqueline Wong-Hernandez, Representative of the State Controller	Yes
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I. Summary of the Mandate

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017. Specifically, the Commission found that the mandate was 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.

II. Procedural History

On May 22, 2020, the Commission adopted the Test Claim Decision.² On May 22, 2020, Commission staff issued the Draft Expedited Parameters and Guidelines.³ On June 12, 2020, the claimant filed comments on the Draft Expedited Parameters and Guidelines.⁴ On July 6, 2020, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines.⁵ On July 23, 2020, the claimant filed comments on the Draft Proposed Decision and Parameters and Guidelines stating that it had no additional comments to offer.⁶

III. Positions of the Parties

A. City of San Diego

The claimant has requested that the Commission add several activities, which it asserts are reasonably necessary to comply with the mandated program. Claimant asserts that it is necessary that local agencies update their policies and procedures to provide a sufficient level of explanation to its peace officers that must perform the functions of Government Code section 12525.5.⁷ The claimant also states that updating information technology, specifically adopting and testing software, which allows local agencies to comply with state-mandated activities is reasonable and necessary.⁸ To that end, the claimant requests that Section IV. of the Draft

² Exhibit A, Test Claim Decision.

³ Exhibit B, Draft Expedited Parameters and Guidelines.

⁴ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines.

⁵ Exhibit D, Draft Proposed Decision and Parameters and Guidelines.

⁶ Exhibit E, Claimant’s Comments on the Draft Proposed Decision and Parameters and Guidelines.

⁷ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, page 2.

⁸ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, page 2.

Expedited Parameters and Guidelines be amended to provide for reimbursement of one-time activities to include: update policies and procedures to incorporate the requirements of the test claim statute; train staff (peace officers) assigned to perform the reimbursable activities listed in Section IV. of the Parameters and Guidelines; and install and test the software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops. The claimant also requests that Section IV. of the Draft Expedited Parameters and Guidelines authorize ongoing reimbursement for updated training to meet any new requirements made by the Legislature or the Racial and Identity Profiling Act (RIPA) Board; and update software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.⁹ Specifically, the claimant requests that the following activities be added to the Parameters and Guidelines:

One-time activities:

- a. Update policies and procedures to incorporate the requirements of the Test Claim Statute.
- b. Train staff (peace officers) assigned to perform the reimbursable activities listed in section IV of these Parameters and Guidelines (one-time for each employee).
- c. Installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.

Ongoing activities:

- a. As modifications are made to the Test Claim Statute provide for updated training to meet any new requirements made by the legislature or the Racial and Identity Profiling Act Board.
- b. Update software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.¹⁰

The claimant has also filed a Declaration of Captain Jeffrey Jordon, San Diego Police Department, to support these requests.¹¹

B. Department of Finance

The Department of Finance (Finance) has not filed any comments on the Draft Expedited Parameters and Guidelines.

IV. Discussion

A. Eligible Claimants (Section II. of Parameters and Guidelines)

⁹ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, page 2.

¹⁰ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines, page 2.

¹¹ Exhibit C, Claimant’s Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), pages 3-6.

In the Test Claim Decision, the Commission found that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and Title 11, California Code of Regulations sections 999-224-999.229 (Register 2017, No. 46), constitutes a state-mandated new program or higher level of service, and imposes costs mandated by the state, *only* on city and county law enforcement agencies that employ peace officers (other than probation officers and officers in a custodial setting) who perform the requirements of the test claim statute and regulations for stops within their own jurisdictions, and cities and counties that contract for officers from other city or county reporting agencies in order to carry out their basic and essential function of providing police protection services in their jurisdictions.¹² The Commission also found that the test claim statutes did not impose a state-mandated program on K-12 school districts and community college districts; and on cities and counties when they assign their peace officers out to work for other government or private entities based on a contract or memorandum of understanding.¹³

Section II. of the Proposed Parameters and Guidelines therefore states the following:

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:

- 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.

B. Period of Reimbursement (Section III. of Parameters and Guidelines)

Government Code section 17557(e) establishes the period of reimbursement for an approved test claim based on when the test claim is filed; “[a] test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.” Based on the filing date of June 14, 2019 for this Test Claim, the potential period of reimbursement, pursuant to Government Code section 17557(e), would begin July 1, 2017.¹⁴ However, as indicated in the Commission’s Test Claim Decision, the Commission partially approved the claim *only* for the activities mandated by Government Code section 12525.5 and the regulations adopted by DOJ to implement section 12525.5 (Cal. Code Regs., tit. 11, §§

¹² Exhibit A, Test Claim Decision, pages 4, 53.

¹³ Exhibit A, Test Claim Decision, page 9.

¹⁴ Exhibit A, Test Claim Decision, page 25.

999.224 through 999.229, Register 2017, No. 46).¹⁵ These regulations became operative and effective on November 7, 2017.¹⁶ 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.

Accordingly, Section III. of the Parameters and Guidelines states that the period of reimbursement begins November 7, 2017.¹⁷

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

Pursuant to Government Code section 17557(a) and section 1183.7 of the Commission’s regulations, the Parameters and Guidelines must identify the activities mandated by the state and “may include proposed reimbursable activities that are reasonably necessary for the performance of the state-mandated program.” “Reasonably necessary activities” are defined in the Commission’s regulations as follows:

“Reasonably necessary activities” are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of these regulations.¹⁸

Any proposed reasonably necessary activity must be supported by substantial evidence in the record explaining why the proposed activity is necessary for the performance of the state-mandated activity in accordance with Government Code sections 17557(a), 17559, and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

Here, Section IV. of the Parameters and Guidelines lists the activities that the Commission approved as reimbursable state-mandated activities. The claimant has filed comments on the Draft Expedited Parameters and Guidelines identifying additional activities alleged to be reasonably necessary to comply with the mandate. Specifically, the claimant requests reimbursement for the following one-time activities: update policies and procedures to incorporate the requirements of the Test Claim statute; train staff (peace officers) assigned to perform the reimbursable activities listed in section IV. of the Parameters and Guidelines; and

¹⁵ Exhibit A, Test Claim Decision, page 25.

¹⁶ Exhibit A, Test Claim Decision, page 25.

¹⁷ Exhibit B, Draft Expedited Parameters and Guidelines, page 6.

¹⁸ California Code of Regulations, title 2, section 1183.7(d).

install and test the software necessary to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.¹⁹

The claimant also requests that Section IV. of the Parameters and Guidelines provide reimbursement for the following ongoing activities alleged to be reasonably necessary to comply with the mandate: updated training to meet any new requirements made by the Legislature or RIPA; and update software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.²⁰ Each of these requests will be discussed in turn.

1. The proposed one-time activity to update policies and procedures is not supported by substantial evidence in the record explaining why this activity is reasonably necessary to comply with the mandate.

The claimant requests reimbursement for the one-time activity of updating policies and procedures to incorporate the requirements of the test claim statute.²¹ While the claimant's comments focus on costs associated with training and information technology, the comments are silent as to the specific need for updating local agency policies and procedures. Neither Captain Jordon's declaration filed with the comments, nor Captain Jordon's declaration and exhibits filed with the Test Claim demonstrate why updating policies and procedures is reasonably necessary to comply with the mandate. The only reference to this allegedly necessary activity is the claimant's assertion that "in order to comply with the test claim statutes, it is necessary for local agencies that employ peace officers to update their policies and procedures, and provide training related to data collection and reporting."²² There is no follow-up to this statement in the comments regarding why updating or adopting policies and procedures is necessary, nor does the record contain any specificity regarding costs incurred or the steps taken in regard to updating agency policy and procedure.

For this activity to be approved as reasonably necessary to comply with the mandate pursuant to Government Code sections 17557 and 17559, and section 1183.7 of the Commission's regulations, the claimant must explain and support, with substantial evidence in the record and in accordance with the Commission's regulations, why updating policies and procedures is reasonably necessary to comply with the mandate. Section 1187.5 of the Commission's regulations requires that oral or written representations of fact shall be under oath or affirmation; that all written representations of fact must be signed under penalty of perjury by persons who are authorized and competent to do so; and that hearsay evidence may only be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

Accordingly, the Commission denies this request.

¹⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²⁰ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²¹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²² Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

2. The proposed activity to provide one-time training for each peace officer employee and supervisor assigned to perform the reimbursable activities is supported by evidence in the record and is, therefore, reasonably necessary to comply with the mandate.

The claimant requests reimbursement to provide one-time training to employees and supervisors assigned to perform the reimbursable activities listed in Section IV. of these Parameters and Guidelines.²³ In support of this request, the claimant contends that the mandate requires law enforcement personnel to learn new definitions, software applications for the collection and submission of data, and extensive rules governing exceptions to data collection during stops.^{24 25}

The Commission finds there is substantial evidence in the record to support the finding that one-time training per employee performing the mandate is reasonably necessary to comply with the mandate. Captain Jordon's declaration, signed under the penalty of perjury, and filed with the Test Claim, declares that it would not be possible for local agencies employing peace officers to collect stop data and report it to the Attorney General without being familiar with how a stop is defined and when it must be reported.²⁶ Captain Jordon notes that prior to the enactment of Government Code 12525.5, no law enforcement agency in California was mandated to collect and report stop data as is now required.²⁷ As a result, local law enforcement agencies that employ peace officers must be trained and supervised to perform these activities correctly, and the collection and reporting of this data requires specialized expertise in information technologies.²⁸ As for supervisory training, Captain Jordon declares that supervisors must be trained to determine if their officers are collecting and submitting the required stop data.²⁹ Captain Jordon attached training logs to his declaration outlining leadership training in 2018, where peace officer managers were trained on AB 953 and RIPA.³⁰ And he attached a log showing the peace officer staff who were trained on the RIPA requirements.³¹ All sworn members of the San Diego Police Department (SDPD) were required to receive at least 15 minutes of training via an online PowerPoint presentation related to new stop data items to be collected and submitted under Government Code 12525.5(a)(1), while supervisors were required to receive an additional hour of training to ensure officers assigned to them were accurately

²³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

²⁴ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

²⁵ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁶ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁷ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁸ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

²⁹ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 2.

³⁰ Exhibit F, Excerpt from the Test Claim (Exhibit 12, Command Training Logs), pages 2, 3.

³¹ Exhibit F, Excerpt from the Test Claim (Exhibit 12, Command Training Logs), pages 27-97.

collecting and submitting the data pursuant to the alleged mandate.³² There is no evidence rebutting these declarations.

In addition, the reporting requirements for this program, and the exceptions to reporting, are detailed and specific, and require that the reports be audited and validated pursuant to the Department of Justice (DOJ) specifications. The legislative history of Government Code section 12525.5 and the test claim regulations demonstrate that training costs were anticipated by the Legislature and DOJ. In their Economic and Fiscal Impact Statement, DOJ stated that AB 953 would likely result in increased demand for training professionals and support staff to help law enforcement agencies implement the reporting requirements.³³ Also, the Senate Committee on Appropriations – in its report regarding AB 953 – noted that “Additional costs for training on the process would likely be required.”³⁴

Accordingly, the Commission finds that the evidence in the record supports the finding that one-time training per employee is reasonably necessary to comply with the mandate. This activity is included in Section IV.A. Reimbursable Activities (One-Time Activities) as follows:

- 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.
3. The proposed one-time activity to install and test software to comply with the mandated requirements to collect and report stop data is supported by evidence in the record and is, therefore, reasonably necessary to comply with the mandate.

The test claim regulations require claimants to:

- 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].)
- 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].)

The claimant contends that the one-time activity to install and test software is necessary to comply with the state-mandated requirements for the collection and reporting of data on all

³² Exhibit F, Excerpt from the Test Claim (Exhibit 12, Command Training Logs), pages 27-97; Exhibit F, Excerpt from the Test Claim (Narrative), pages 2, 8.

³³ Exhibit F, Excerpt from the Test Claim (California Department of Justice, Economic and Fiscal Impact Statement, AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5), page 1.

³⁴ Exhibit F, Excerpt from the Test Claim (Senate Committee on Appropriations, Analysis of AB 953 [2015-2016 Reg. Sess.], August 17, 2015), page 1.

applicable stops.³⁵ In support of this, the claimant states that it has incurred costs to obtain, test, process and validate the collected data through hardware and software applications.^{36, 37} The claimant noted that its Information Technology costs were relatively minor because the San Diego Sheriff's Department provided a custom data collection application and submission tools free of charge.³⁸ The application was loaded by Data Systems members on to SDPD's desktop and mobile computers so officers could use the software to submit data.³⁹ Additional testing was done, however, to make sure the software worked properly and all of these activities were needed to comply with the mandate before going "live" on June 27, 2018.⁴⁰ Notably, the Economic and Fiscal Impact Statement for the DOJ regulations indicates that the DOJ was developing a web-based application to provide to the local agencies to assist with submission of data collected pursuant to Government Code section 12525.5.⁴¹

Accordingly, the Commission finds that the evidence in the record supports the finding that one-time installation and testing of software is reasonably necessary to comply with the mandate. This activity is included in Section IV.A. Reimbursable Activities (One-Time Activities) as follows:

- One-time installation and testing of software necessary to comply with the state-mandated requirements for the collection and reporting requirements of data on all applicable stops.
 4. The proposed ongoing activity of providing training to meet new requirements imposed by the Legislature or RIPA is not consistent with the law and is therefore denied.

The claimant requests reimbursement for the ongoing activity of providing training to meet any new requirements made by the Legislature or the RIPA Board. This proposed activity is not consistent with the law. In the event the Legislature or DOJ change the law and increase the responsibilities of local government under this program, then new a test claim would have to be filed pursuant to Government Code sections 17551 and 17553. If the Legislature or DOJ repeals

³⁵ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 2.

³⁶ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

³⁷ Exhibit F, Excerpt from the Test Claim (Declaration of Captain Jeffrey Jordon), page 1.

³⁸ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 4.

³⁹ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 4.

⁴⁰ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines (Declaration of Captain Jeffrey Jordon), page 3.

⁴¹ Exhibit F, Excerpt from the Test Claim (California Department of Justice, Economic and Fiscal Impact Statement, AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5), page 11.

one of the activities mandated by the state, or otherwise changes the future liability of the State under article XIII B, section 6, then the State can request that the Parameters and Guidelines be amended under Government Code section 17557(d), or the State can file a request to adopt a new test claim decision under Government Code section 17570. Thus, these Parameters and Guidelines cannot account for future changes in law.

And the RIPA Board is not tasked with, nor have they been given authority to revise or amend the requirements under the test claim statute. Rather, the RIPA Board is tasked with reviewing and analyzing reported data, working with law enforcement to review and analyze racial and identity profiling practices and procedures, issuing a report of their findings, and holding at least three annual public meetings.⁴²

The Commission therefore denies the request for ongoing training on the basis of future changes in the law.

5. The proposed ongoing activity of updating software, as necessary, to comply with the requirements of collecting and reporting data is not supported by substantial evidence in the record explaining why this activity is reasonably necessary to comply with the mandate.

The claimant has also requested ongoing reimbursement for updating software, as necessary, to comply with the state-mandated requirements for the collection and reporting of data on all applicable stops.⁴³ There is nothing in the record demonstrating that this is a reasonably necessary activity. The claimant has not provided or pointed to any evidence in the record demonstrating that the software used to perform the requirements under the mandate needs updating. Notably, the DOJ Economic and Fiscal Impact Statement does not mention that agencies would likely be subject to ongoing costs related to updating software.⁴⁴

Accordingly, the Commission denies this request.

D. Claim Preparation and Submission (Section V of the Parameters and Guidelines)

Consistent with the approval of one-time training, Section V. of the Parameters and Guidelines (Claim Preparation and Submission) includes the boilerplate language for claiming the costs of training as follows:

5. 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

⁴² Exhibit F, Excerpt from the Test Claim (Senate Committee on Appropriations, Analysis of AB 953 [2015-2016 Reg. Sess.], August 17, 2015), page 4.

⁴³ Exhibit C, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

⁴⁴ Exhibit F, Excerpt from the Test Claim (California Department of Justice, Economic and Fiscal Impact Statement, AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5).

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.

V. Conclusion

Based on the foregoing, the Commission hereby adopts the Decision and Parameters and Guidelines.

PARAMETERS AND GUIDELINES⁴⁵

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. 46⁴⁶

Racial and Identity Profiling

18-TC-02

Reimbursement for this program begins November 7, 2017.

I. SUMMARY OF THE MANDATE

On May 22, 2020, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Government Code section 12525.5, as added and amended by Statutes 2015, chapter 466 and Statutes 2017, chapter 328, and California Code of Regulations, title 11, sections 999.224- 999.229 (Register 2017, No. 46), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning November 7, 2017, 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.

II. ELIGIBLE CLAIMANTS

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:

⁴⁵ Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

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

- 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.

PERIOD OF REIMBURSEMENT

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. 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, 2017,⁴⁷ establishing the period of reimbursement beginning November 7, 2017.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

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.

⁴⁷ 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.

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, 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.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

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.

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,⁴⁸ 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.

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.”⁴⁹
- Stops made during public safety mass evacuations.⁵⁰
- Stops during an active shooter incident.⁵¹

⁴⁸ 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.

⁴⁹ California Code of Regulations, title 11, section 999.227(b) (Register 2017, No. 46).

⁵⁰ California Code of Regulations, title 11, section 999.227(c)(1) (Register 2017, No. 46).

⁵¹ California Code of Regulations, title 11, section 999.227(c)(2) (Register 2017, No. 46).

- 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.⁵²
 - 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.⁵³
 - Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition.⁵⁴
 - 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.⁵⁵
 - Stops in a custodial setting.⁵⁶
 - Stops that occur while the officer is off-duty.⁵⁷
- 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].)

⁵² California Code of Regulations, title 11, section 999.227(c)(3) (Register 2017, No. 46).

⁵³ California Code of Regulations, title 11, section 999.227(d)(1).

⁵⁴ California Code of Regulations, title 11, section 999.227(d)(2) (Register 2017, No. 46).

⁵⁵ California Code of Regulations, title 11, section 999.227(d)(3) (Register 2017, No. 46).

⁵⁶ California Code of Regulations, title 11, section 999.225(c) (Register 2017, No. 46).

⁵⁷ Exhibit A, Test Claim Decision, page 6; Exhibit F, Final Statement of Reasons, Proposed Regulations, Title 11, Sections 999.224-999.229, pages 12-13, <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-fsor-revised-110817.pdf> (accessed on November 8, 2019).

- (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].)
- (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].)

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity 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 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

Report the purchase price paid for fixed assets necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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. 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 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution 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 & 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 that the total amount of 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 & 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 of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter⁵⁸ 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 AND REIMBURSEMENTS

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.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the 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(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

⁵⁸ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

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 September 29, 2020, I served the:

- **Decision and Parameters and Guidelines adopted September 25, 2020**

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

City of San Diego, Claimant

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 September 29, 2020 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: 8/4/20

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.)

John Ades, Captain, *San Bernardino County Sheriff's Department*

Information / Technical Services Division, 655 East Third Street, San Bernardino, CA 92415

Phone: (909) 884-0156

jades@sbcasd.org

Manny Alvarez Jr., Executive Director, *Commission on Peace Officer Standards and Training*

860 Stillwater Road, Suite 100, West Sacramento, CA 95605

Phone: (916) 227-3909

Manny.Alvarez@post.ca.gov

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Matthew Aveling, Chief Deputy, *Riverside County Sheriff's Department*

Sheriff's Administration, 4905 Lemon Street, Riverside, CA 92501

Phone: (951) 955-2416

maveling@riversidesheriff.org

Christopher Becker, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

Christopher.Becker@csn.ca.gov

Cindy Black, City Clerk, *City of St. Helena*

1480 Main Street, St. Helena, CA 94574

Phone: (707) 968-2742

ctzafopoulos@cityofstheleena.org

Allan Burdick,

7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Gwendolyn Carlos, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Michele Cervone, Legislative Assistant, *Aaron Read & Associates*
1415 L Street, Suite 1100, Sacramento, CA 95814
Phone: (916) 448-3444
mcervone@aaronread.com

Rolando Charvel, Chief Financial Officer, *City of San Diego*
Claimant Contact
202 C Street, 9th Floor, San Diego, CA 92101
Phone: (619) 236-5941
RCharvel@sandiego.gov

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinnrcrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Michael Coleman, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@munil.com

Phill Dupper, Lieutenant, *San Bernardino County Sheriff's Department*
Information / Technical Services Division, 655 East Third Street, San Bernardino, CA 92415
Phone: (909) 884-0156
pdupper@sbcasd.org

Patrick Dyer, Director, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 443-3411
pdyer@mgtconsulting.com

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Dillon Gibbons, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

Jim Grottkau, Bureau Chief, *Commission on Peace Officer Standards and Training*
Basic Training, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605
Phone: (916) 227-3909
Jim.Grottkau@post.ca.gov

Zachary Hall, Sheriff's Captain, *Riverside County Sheriff's Department*
4905 Lemon Street, Riverside, CA 92501
Phone: (951) 955-2400
zhall@riversidesheriff.org

Heather Halsey, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Sunny Han, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Jeffrey Jordon, Captain, *City of San Diego*
Claimant Representative
San Diego Police Department, 1401 Broadway, San Diego, CA 92101
Phone: (619) 756-5264
jjjordon@pd.sandiego.gov

Anita Kerezsi, *AK & Company*
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446
Phone: (805) 239-7994
akcompanysb90@gmail.com

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive, Newport Beach, CA 90266

Phone: (949) 644-3199
jkessler@newportbeachca.gov

Lisa Kurokawa, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

Alison Leary, Deputy General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8200
aleary@cacities.org

Fernando Lemus, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

Erika Li, Program Budget Manager, *Department of Finance*
915 L Street, 10th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
erika.li@dof.ca.gov

Jill Magee, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

Corrie Manning, Assistant General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8200
cmanning@cacities.org

Brian Marvel, President, *Peace Officers Research Association of California (PORAC)*
4010 Truxel Road, Sacramento, CA 95834
Phone: (916) 928-3777
president@porac.org

Jane McPherson, Financial Services Director, *City of Oceanside*
300 North Coast Highway, Oceanside, CA 92054
Phone: (760) 435-3055
JmcPherson@oceansideca.org

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Lourdes Morales, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

Debra Morton, Manager, Local Reimbursements Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-0256
DMorton@sco.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Arthur Palkowitz, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Johnnie Pina, Legislative Policy Analyst, *League of Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8214
jpina@cacities.org

Jai Prasad, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

Aaron Read, Legislative Advocate, *Aaron Read & Associates*
1415 L Street, Suite 1100, Sacramento, CA 95814
Phone: (916) 448-3444
aread@aaronread.com

Theresa Schweitzer, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3140
tschweitzer@newportbeachca.gov

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Natalie Sidarous, Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: 916-445-8717
NSidarous@sco.ca.gov

Michelle Skaggs Lawrence, City Manager, *City of Oceanside*
300 North Coast Highway, Oceanside, CA 92054
Phone: (760) 435-3055
citymanager@oceansideca.org

Jim Spano, Chief, Division of Audits, *State Controller's Office*
3301 C Street, Suite 715A, Sacramento, CA 95816
Phone: (916) 324-1696
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Joe Stephenshaw, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

Brittany Thompson, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Brittany.Thompson@dof.ca.gov

Jolene Tollenaar, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Robert Trostle, Lieutenant, *San Bernardino County Sheriff's Department*
Information / Technical Services Division, 655 East Third Street, San Bernardino, CA 92415
Phone: (909) 884-0156
rtrostle@sbcasd.org

Evelyn Tseng, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

Brian Uhler, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

Dennis Vrooman, Assistant Sheriff, *Riverside County Sheriff's Department*
Sheriff's Administration, 4905 Lemon Street, Riverside, CA 92501
Phone: (951) 955-8792
dvrooman@riversidesheriff.org

Renee Wellhouse, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

Hasmik Yaghobyan, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov