



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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RECEIVED
April 17, 2025
**Commission on
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April 17, 2025

Via Drop Box

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

**RESPONSE TO THE DEPARTMENT OF FINANCE'S
COMMENTS ON THE COUNTY'S CRIMINAL
PROCEDURE: DISCRIMINATION TEST CLAIM**

The County of Los Angeles ("Claimant") submits the attached Comments in response to the Department of Finance's comments on our *Criminal Procedure: Discrimination, 24-TC-02* Test Claim.

If you have any questions please call me, or your staff may contact Fernando Lemus at (213) 974-0324 or via e-mail at flemus@auditor.lacounty.gov.

Very truly yours,

Oscar Valdez
Auditor-Controller

OV:CY:RA:EW:RC:FL

Attachment

**RESPONSE TO THE DEPARTMENT OF FINANCE
COMMENTS ON THE COUNTY'S CRIMINAL PROCEDURE:
DISCRIMINATION TEST CLAIM**

The County of Los Angeles (Claimant) has reviewed the comments from the Department of Finance (Finance) related to Test Claim 24-TC-02.

Contrary to Finance's position, Claimant's mandated activities and the associated costs incurred in implementing Assembly Bill (AB) 256 are not exempt from reimbursement under constitutional or statutory grounds. California Constitution Article XIII B, Section 6 requires the State to pay for any new governmental programs or higher levels of service under existing programs that it imposes on local public agencies. However, the Constitution exempts reimbursement when legislation defines a new crime or changes the existing definition of a crime. AB 256 and the amendment in Penal Code (PC) § 745(j)(3) do not define a new crime or change the existing definition of a crime. Rather, PC § 745(j)(3) authorizes State prisoners to petition the court if they believe their prosecution was impacted by racial, ethnic, or national bias. Accordingly, the Commission on State Mandates (Commission) may find that Claimant is entitled to reimbursement since it is not barred under the Constitution.

Finance argues that the Commission should deny this Test Claim under Government Code (GC) § 17556(g). They contend that AB 256 changes the penalty of a crime and argue that, because a court may vacate an existing sentence and impose a new sentence, this represents a change in the penalty for a crime. For this reason, Finance believes the Commission should deny this Test Claim in its entirety.

GC § 17556(g) is not applicable to AB 256. GC § 17556(g) states that a claimant is exempt from reimbursement when the Test Claim statute creates a new crime or infraction, eliminates a crime or changes the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

AB 256 amended the Racial Justice Act (RJA) of 2020 to apply the RJA retroactively to ensure equal access to all. Specifically, AB 256 amended PC § 745(j)(1) to allow persons currently serving a sentence in State prison or county jail to file a habeas corpus writ petition or motion to challenge a racially biased prosecution. The RJA provides that if a court finds that an RJA violation occurred, "it shall impose a remedy specific to the violation" found in the list of enumerated remedies.

AB 256 offers a procedural remedy to challenge the existence of racial bias, but it does not change the penalty for crimes. It allows the court to consider evidence of unlawful animus and then determine how best to remedy the harm to the defendant's case and restore the integrity of the judicial system. Having a sentence changed is only a possible remedy and certainly not a right or guarantee. This is evidenced in a recent case where

the court of appeals determined that even when a Racial Justice Act violation was found that the court declining to impose a remedy at all was within the court's discretion.¹

Additionally, imposing a new or lesser sentence is not an automatic function of an RJA violation. Pursuant to PC § 745(k), the prosecution has a right to prove that the violation was "harmless error" and did not affect the outcome of the trial.² If they are successful in this, then the court may find an RJA violation but not impose any kind of remedy, such as reducing the sentence. It is clear that AB 256 does not change the penalty of a crime but rather offers paths for relief for cases in which racial bias infected the trial. After appointment of counsel, the RJA violation will be litigated and only if the judge determines a violation has occurred and the error was not harmless, then they may choose a remedy, or according to new case law, choose not to impose a remedy if that is in the interest of justice.

Further, for GC § 17556(g) to apply, the Commission must not only find that the RJA changed the penalty for a crime, but it must also find that it changed the penalty for a crime, but only for that portion of the statute relating directly to the enforcement of the crime. Assuming arguendo that the Commission finds that the RJA changed the penalty of the crime, it must determine whether the change in penalty is *related directly to the enforcement of the crime*. In *County of San Diego v. Commission on State Mandates*, the Court of Appeals found that GC § 17556(g) exempted reimbursement because it determined that parole flowed directly from the parolee's underlying crime and was a direct consequence of a criminal conviction.³ Here, any remedy that a court imposes following an RJA violation is unrelated to the crime perpetrated by the convicted person. Rather, the remedy directly relates to eliminating discriminatory practices in the justice system.⁴ Therefore, AB 256 does not meet the second prong of GC § 17556(g), in that the Test Claim statute does not directly relate to the enforcement of the crime.

For the reasons stated above, Claimant requests that the Commission find that no exemption to reimbursement applies and that the Test Claim be granted.

¹ "However, if there is not a remedy specific to the particular violation, or imposition of a remedy under subdivision (e)(1)(C) that would not be in the interest of justice, the court retains discretion to decline to impose a remedy." *R.D. v. Superior Court of Sacramento County*, (2025) Cal.App. 3 Dist., 330 Cal.Rptr.3d 155.

² "For petitions that are filed in cases for which judgment was entered before January 1, 2021, and only in those cases, if the petition is based on a violation of paragraph (1) or (2) of subdivision (a), the petitioner shall be entitled to relief as provided in subdivision (e), unless the state proves beyond a reasonable doubt that the violation did not contribute to the judgment." (PC § 745 (k))

³ *County of San Diego v. Commission on State Mandates*, (2023) 91 Cal.App.5th 625, 643.

⁴ Assembly Bill 2542, § 2, subd. (i)

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 April 18, 2025, I served the:

- **Current Mailing List dated April 10, 2025**
- **Claimant's Rebuttal Comments filed April 17, 2025**

Criminal Procedure: Discrimination, 24-TC-02
Statutes 2022, Chapter 739, Section 1 (AB 256); Penal Code Section 745
County of Los Angeles, 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 April 18, 2025 at Sacramento, California.



David Chavez
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/10/25

**Claim
Number:** 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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