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Filed Date
09/08/2026

September 8, 2026

Juliana F. Gmur
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And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Comment on Draft Expedited Parameters and Guidelines
Race-Blind Charging, 24-TC-07
Statutes 2022, Chapter 806, Section 2 (AB 2778); Penal Code Section 741
City of Sacramento, County of Sutter, County of Santa Clara, Claimants

Dear Director Gmur:

The County of Santa Clara ("Claimant") files this Comment on the Draft Expedited Parameters and Guidelines ("Parameters and Guidelines") issued by the Commission on State Mandates ("Commission") for test claim 24-TC-07 ("Test Claim"). With this Comment, Claimant respectfully requests that the Commission amend the Parameters and Guidelines to require the State to reimburse counties and cities for the costs of conducting activities related to (1) the ongoing execution of a redaction and review process; (2) providing training and other forms of instruction to staff; and (3) receiving electronic police reports by prosecution agencies.

DISCUSSION

A. Claimant Requests that the Parameters and Guidelines Be Amended to Reflect the Test Claim Statute Mandate that Prosecuting Agencies Not Only Develop but Also Execute a Redaction and Review Process.

Claimant requests that the Commission amend the Parameters and Guidelines to reflect all state-mandated activities required by Penal Code section 741(b) (the "Test Claim Statute"). Specifically, whereas the Test Claim Statute requires that "prosecution agencies shall independently *develop and execute* versions of [a] redaction and review process" (Pen. Code, § 741(b), italics added)), the corresponding language in the Parameters and Guidelines requires the State to reimburse prosecution agencies only for activities associated with "[i]ndependently *develop[ing]* versions of a redaction and review process" (Parameters and Guidelines at p. 4, italics added).

This omission overlooks a new obligation imposed by the Legislature on counties and cities. By employing the term "shall," the Legislature intended to mandate the execution of a redaction and review process, as recognized by the Commission in its decision:

> The plain language of Penal Code section 741(b) states that local "prosecuting agencies *shall* independently develop and *execute* versions of this redaction and review process." Under well-settled rules of statutory construction, the courts ordinarily construe the word "may" as permissive and the word "shall" as mandatory, particularly when the Legislature uses both words in a single statute. In this case, the Legislature is using the word "shall" in subdivision (b) for the requirement to develop a local process to redact, whereas in subdivision (c), the Legislature uses the word "may" to allow city and county prosecuting agencies to remove or exclude certain classes of crimes or factual circumstances from a race-blind initial charging evaluation. Thus, the plain language indicates that the word "shall" in subdivision (b) is mandatory.

(*Race-Blind Charging*, Decision, No. 24-TC-07, pp. 23–24 (adopted Aug. 14, 2026), first italics in original, second italics added.)

While the omission of the words "and execution" from the Parameters and Guidelines may have been inadvertent, its effect is significant, as the new activities mandated by the Test Claim Statute are not limited to the one-time activities associated solely with the development of a redaction and review process. Amending the Parameters and Guidelines will capture the ongoing costs imposed on counties and cities by the statutory mandate to continuously *execute* the redaction and review process going forward. For these reasons, Claimant requests that the Commission amend Section IV(A)(1) of the Parameters and Guidelines to read as follows: "Independently develop *and execute* versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (Issued January 1, 2024). (Pen. Code § 741(b).)."

B. Claimant Requests that the Parameters and Guidelines Be Amended to Recognize that Training and Other Forms of Instructing Staff Are Reasonably Necessary to Comply with the Test Claim Statute.

The Commission's regulations require that parameters and guidelines describe the reimbursable costs associated with implementation of a State mandate, including "one-time costs and on-going costs, and reasonably necessary activities required to comply" with the law. (Cal. Code Regs., tit. 2, 1183.7(d).) "Reasonably necessary activities" are "those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program." (*Ibid*.)

Claimant respectfully requests that the Commission amend the Parameters and Guidelines to provide for reimbursement of the costs incurred for the reasonably necessary activities of providing training and other forms of instruction to staff. As described in the declaration of Assistant District Attorney James Gibons-Shapiro submitted by Claimant in support of the Test Claim (see Test Claim at pp. 20–32) ("Declaration"), the County of Santa Clara District Attorney's Office (DAO) conducted a two-hour user training session for attorneys that included an overview of the Test Claim Statute and specific instructions on how to navigate the new user interface for conducting the initial charging evaluation in its case management system. (Declaration at ¶ 19(a).) The DAO also provided instructions to support staff on how to identify which documents require redaction and how to flag them for redaction in its case management system. (*Id.* at ¶ 19(b).) Lastly, the DAO has provided individualized guidance to users in response to service requests, for example, by explaining how to navigate the new interface and the steps for conducting the new initial charging evaluation process. (*Id.* at ¶ 19(c).)

These activities are reasonably necessary to comply with the Test Claim Statute. Under the Test Claim Statute, individual prosecutors conduct the initial charging evaluation. (See Pen. Code, § 741(b)(2).) In order to carry out that obligation, they must be familiar not only with the new statutory mandate but also with how the DAO operationalized that mandate in its case management system. In addition, because the Test Claim Statute mandates the redaction of only certain documents for certain crimes, instructions must be provided to support staff to ensure that they identify and flag the appropriate documents for redaction in the case management system. (See *id.*, § 741(b)(1) & (c); see also Parameters and Guidelines at pp. 1–2.)

The Commission has regularly found that training employees on how to perform the reimbursable activities is reasonably necessary. (See, e.g., *Racial and Identity Profiling*, Decision and Parameters and Guidelines Amendment, No. 21-PGA-01, p. 20 (adopted Mar. 24, 2023) [including among reimbursable direct costs "the cost of training an employee to perform the reimbursable activities, as specified in . . . this document"]; accord *Photographic Record of Evidence*, Parameters and Guidelines Amendment, No.

04-PGA-09, p. 5 (adopted Dec. 9, 2005).) Similarly here, Claimant requests that the Commission amend the Parameters and Guidelines to provide for the reimbursement of the costs of providing training and other forms of instruction to employees on performing the reimbursable activities on the grounds that such training is reasonably necessary to ensure compliance with the Test Claim Statute. Accordingly, Claimant asks that the Commission add the following to the list of reimbursable activities in Section IV(A) of the Parameters and Guidelines: "Training and providing other forms of instruction to an employee to perform the reimbursable activities as specified in Section IV of this document." It also asks the Commission to add the following to the list of direct costs in Section V(A) of the Parameters and Guidelines: "Report the cost of training and providing other forms of instruction to an employee to perform the reimbursable activities as specified in Section IV of this document."

C. Claimant Requests that the Parameters and Guidelines Be Amended to Recognize that Activities Associated with Receiving Electronic Police Reports Are Reasonably Necessary to Comply with the Test Claim Statute.

Lastly, Claimant requests that the Commission amend the Parameters and Guidelines to provide for reimbursement of the costs incurred for the activities required for prosecuting agencies to receive electronic police reports. Because redaction software can be used to redact only electronic police reports, these activities are reasonably necessary to comply with the Test Claim Statute's mandate that prosecution agencies redact the narrative portion of police reports, including by "mechanically" redacting the reports. (See Pen. Code, § 741(b)(1).)

The Test Claim Statute requires that prosecuting agencies independently develop and execute a redaction process—including redacting "by automation with the use of computer programming"—following the California Department of Justice's (DOJ) Race-Blind Charging Guidelines ("Guidelines"). (Pen. Code, § 741(b) & (b)(1).) The Guidelines, in turn, describe various examples of redaction processes that satisfy this statutory mandate. (See Test Claim at p. 53; Cal. Dept. of J., Race-Blind Charging Guidelines: Penal Code Section 741, § III(d) (Jan. 1, 2024).) Notably, in providing an example of how redactions are applied automatically to police narratives using a software application, the Guidelines describe how the prosecuting agency receives police reports from the investigating agency in electronic form as scanned files. (Test Claim at p. 53; Guidelines, § III(d)(3).) The declarations submitted in support of the Test Claim describe how the two claimants that automated redactions using software obtain electronic police reports. (Decision at p. 16; Declaration at ¶¶ 21–25; Test Claim at p. 33, Declaration of Jeff C. Greeson, at ¶ 4.).

For these reasons, the Commission should recognize the activity of receiving police reports in electronic form as reasonably necessary to comply with the statutory mandate of redacting police report narratives using software. Accordingly, the

Commission should amend the Parameters and Guidelines in Section IV(A) to add a new reimbursable activity that reads as follows: "Develop and implement procedures and practices to ensure police reports are received in electronic form to enable the automated redaction of police narratives using software."

CONCLUSION

In sum, the Claimant respectfully requests that the Commission amend the Parameters and Guidelines to require the State to reimburse counties and cities for the costs of conducting activities related to (1) the ongoing execution of a redaction and review process; (2) providing training and other forms of instruction to staff; and (3) receiving electronic police reports by prosecuting agencies.

Certification

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my personal knowledge, information, or belief.

September 8, 2026

Sincerely,
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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 8, 2026, I served the:

- **Current Mailing List dated September 8, 2026**
- **Claimant's Comments on the Draft Expedited Parameters and Guidelines filed September 8, 2026**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed September 8, 2026**

  Race-Blind Charging, 24-TC-07
  Statutes 2022, Chapter 806, Section 2 (AB 2778); Penal Code Section 741(b), effective January 1, 2023
  City of Sacramento, County of Santa Clara, and County of Sutter, Claimants

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 8, 2026 at Sacramento, California.

David Chavez

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COMMISSION ON STATE MANDATES

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Last Updated: 9/8/26

Claim Number: 24-TC-07

Matter: Race-Blind Charging

Claimants: City of Sacramento
County of Santa Clara
County of Sutter

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