

**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov



March 7, 2007

Ms. Nancy Gust  
County of Sacramento  
711 G Street  
Sacramento, CA 95814

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

**Re: Proposed Parameters and Guidelines**

*Racial Profiling: Law Enforcement Training, 01-TC-01*

Penal Code Section 13519.4

Statutes 2000, Chapter 684

County of Sacramento, Claimant

Dear Ms. Gust:

The Commission on State Mandates (Commission) received the claimant's proposed parameters and guidelines for the above-named program on March 2, 2007. Staff reviewed the proposal and deemed it to be complete, but not timely filed.

The Commission's letter dated October 31, 2006, notified the claimant that the proposed parameters and guidelines were due on November 30, 2006, which is 30 days after the adopted Statement of Decision was issued. Government Code section 17557, subdivision (a), specifically states:

[If] the commission determines there are costs mandated by the state pursuant to Section 17551, it shall determine the amount to be subvended to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 30 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 30-day period at any time prior to its adoption of the parameters and guidelines. If proposed parameters and guidelines are not submitted within the 30-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 30-day period is justified.

This letter serves as notification to the claimant and the State Controller's Office that the proposed parameters and guidelines were not timely filed, and therefore, the claimant's reimbursement claims for the first 12 months of incurred costs must be reduced by 20 percent.

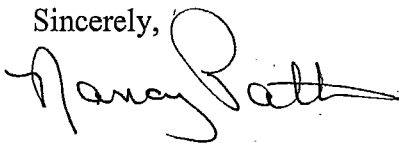
Ms. Nancy Gust  
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**Review and Comments.** All state agencies and interested parties in receipt of this letter are invited to comment on the proposed parameters and guidelines. Recommendations and comments must be submitted to the Commission by **March 22, 2007**. The claimant and interested parties may file rebuttals with the Commission by **April 6, 2007**. The claimant, state agencies, and interested parties are required to submit an original and two (2) copies of written responses or rebuttals to the Commission and to simultaneously serve copies on the test claimant, state agencies, and interested parties on the mailing list.

**Hearing.** If requested, Commission staff will conduct a prehearing conference. Hearings on these matters will be set when the records close.

Please contact Victoria Soriano at (916) 323-8213 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy Patton", written in black ink.

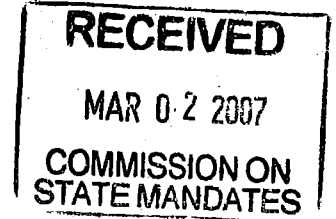
NANCY PATTON  
Assistant Executive Director

Enclosure

# DRAFT PARAMETERS AND GUIDELINES

## *Racial Profiling: Law Enforcement Training* (01-TC-01)

Penal Code, Section 13519.4  
County of Sacramento, Claimant



### **I. SUMMARY OF THE MANDATE**

Chapter 684, statutes of 2000 enacted Penal Code, Section 13519.4, which required every law enforcement officer in the state to participate in expanded training regarding racial profiling, beginning no later than January 1, 2002. The training was to be prescribed and certified by POST, in collaboration with a five-person panel appointed by the Governor, Senate Rules Committee and the Speaker of the Assembly. POST developed a five-hour approved curriculum to meet the initial training requirement. This curriculum was designed to be presented in-house by a trained instructor within the law enforcement agency who had completed a racial Profiling Train-the-Trainer Course prior to facilitating the training.

On October 26, 2006, the Commission on State Mandates approved the test claim as a partially reimbursable mandate only to the extent that attending the initial five-hour racial profiling training course caused an officer to exceed his or her 24-hour continuing education cycle, when the two-year cycle that included the initial five hour training course occurred between January 1, 2002 and July 2004, and the continuing education for that cycle was attended prior to the initial racial profiling course.

### **II. ELIGIBLE CLAIMANTS**

Any county, city, city and county, or special district that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

### **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557 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 test claim for this mandate was filed by the test claimant, County of Sacramento, on August 13, 2001. Therefore, the period of reimbursement begins January 1, 2002, the operative date.

Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

#### **IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. 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, calendars, 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 reported 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.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following activities are eligible for reimbursement on a one time basis for the period of January 1, 2002 through July 31, 2004 as follows:

1. Time the in-house trainer spends in being trained by POST in a Racial Profiling Train-the-Trainer Course.
2. For those incumbent officers who had completed their twenty-four hour continuing education requirement, salaries and benefits, together with overtime for those officers who are paid overtime for attending the course, for the five-hour racial profiling course which takes place between January 1, 2002 and July 31, 2004.
3. Set up and facilities costs.

Each of the following cost elements must be identified for the reimbursable activities identified in section IV of this document. Each 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 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 were 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 invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment 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. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable

activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

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 (1) the 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 the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

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

The distributions 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 and 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 which the total amount 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 and B) shall be accomplished by (1) separate 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 allowable indirect costs bears to the base selected.

## **VI. RECORDS RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the State 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. 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 SAVINGS AND REIMBURSEMENTS**

Any offsetting savings 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 received from any federal, state or non-local source shall be identified and deducted from this claim.

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the parameters and guidelines from the Commission, to assist local agencies in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the claiming instructions shall constitute a notice of the right of local agencies to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **VIII. REMEDIES BEFORE THE COMMISSION**

Upon the request of a local agency or school district, the Commission shall review the claiming instructions issued by the State 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 to conform to the parameters and guidelines as directed by the Commission.

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

**IX. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.



PROOF OF SERVICE BY MAIL

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 711 G Street, Sacramento, CA 95814.

On March 2, 2007 I served the **DRAFT PARAMETERS AND GUIDELINES, Racial Profiling: Law Enforcement Training**, 01-TC-01

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully prepaid.

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 this 2 day of March, 2007, at Sacramento, California.



Declarant

# Commission on State Mandates

Original List Date: 8/13/2001  
Last Updated: 8/31/2006  
List Print Date: 03/07/2007  
Claim Number: 01-TC-01  
Issue: Racial Profiling: Law Enforcement Training

Mailing Information: Completeness Determination

## Mailing List

### Related Matter(s)

02-TC-05 Racial Profiling: Law Enforcement Training (K-14)

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Mr. Jim Spano

State Controller's Office (B-08)  
Division of Audits  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

Tel: (916) 323-5849

Fax: (916) 327-0832

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Mr. Steve Keil

California State Association of Counties  
1100 K Street, Suite 101  
Sacramento, CA 95814-3941

Tel: (916) 327-7523

Fax: (916) 441-5507

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Ms. Susan Geanacou

Department of Finance (A-15)  
915 L Street, Suite 1190  
Sacramento, CA 95814

Tel: (916) 445-3274

Fax: (916) 324-4888

---

Mr. Dan Metzler

Sacramento Co. Sheriff's Department  
711 G Street  
Sacramento, CA 95814

Tel: (916) 874-5350

Fax: (916) 875-0082

---

Mr. David Wellhouse

David Wellhouse & Associates, Inc.  
9175 Kiefer Blvd, Suite 121  
Sacramento, CA 95826

Tel: (916) 368-9244

Fax: (916) 368-5723

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Mr. Allan Burdick

MAXIMUS  
4320 Auburn Blvd., Suite 2000

Tel: (916) 485-8102

Fax: (916) 485-0111

Sacramento, CA 95841

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Mr. Leonard Kaye, Esq.

County of Los Angeles

Auditor-Controller's Office

500 W. Temple Street, Room 603

Los Angeles, CA 90012

Tel: (213) 974-8564

Fax: (213) 617-8106

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Mr. Keith B. Petersen

SixTen & Associates

5252 Balboa Avenue, Suite 900

San Diego, CA 92117

Tel: (858) 514-8605

Fax: (858) 514-8645

---

Ms. Jeannie Oropeza

Department of Finance (A-15)

Education Systems Unit

915 L Street, 7th Floor

Sacramento, CA 95814

Tel: (916) 445-0328

Fax: (916) 323-9530

---

Ms. Annette Chinn

Cost Recovery Systems, Inc.

705-2 East Bidwell Street, #294

Folsom, CA 95630

Tel: (916) 939-7901

Fax: (916) 939-7801

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Ms. Nancy Gust

County of Sacramento

711 G Street

Sacramento, CA 95814

Tel: (916) 874-6032

Fax: (916) 874-5263

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Mr. Dick Reed

Peace Officers Standards and Training

Administrative Services Division

1601 Alhambra Boulevard

Sacramento, CA 95816-7083

Tel: (916) 227-2802

Fax: (916) 227-3895

---

Mr. J. Bradley Burgess

Public Resource Management Group

1380 Lead Hill Boulevard, Suite #106

Roseville, CA 95661

Tel: (916) 677-4233

Fax: (916) 677-2283

---

Ms. Carla Castaneda

Department of Finance (A-15)

915 L Street, 11th Floor

Sacramento, CA 95814

Tel: (916) 445-3274

Fax: (916) 323-9584

---

Ms. Donna Ferebee

Department of Finance (A-15)

915 L Street, 11th Floor

Sacramento, CA 95814

Tel: (916) 445-3274

Fax: (916) 323-9584

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Ms. Marianne O'Malley  
Legislative Analyst's Office (B-29)  
925 L Street, Suite 1000  
Sacramento, CA 95814

Tel: (916) 319-8315  
Fax: (916) 324-4281

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Mr. Dan Rabovsky  
Assembly Budget Committee (E-24)  
California State Assembly  
State Capitol, Room 6026  
Sacramento, CA 95814

Tel: (916) 319-2099  
Fax: (916) 319-2199

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Ms. Ginny Brummels  
State Controller's Office (B-08)  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Tel: (916) 324-0256  
Fax: (916) 323-6527