

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



January 11, 2006

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor/Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415-0018

And Affected State Agencies and Interested Parties (see enclosed mailing list)

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

Dear Ms. Ter Keurst:

The staff analysis and proposed statewide cost estimate for this program are enclosed for your review.

Commission Hearing

The hearing on this matter is set for Thursday, **January 26, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions, please contact Tina Poole at (916) 323-8220.

Sincerely,

A handwritten signature in black ink that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

Enclosures

MAILED: _____
FAXED: _____
DATE: 1/10/00 INITIAL: JD
CHRON: _____ FILE: _____
WORKING BINDER: _____

ITEM 16
PROPOSED STATEWIDE COST ESTIMATE
FINAL STAFF ANALYSIS

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

Statutes 1995, Chapter 590

Statutes 2000, Chapter 289

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

County of San Bernardino, Claimant

EXECUTIVE SUMMARY

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

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

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

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

¹ Claims data reported as of November 3, 2005.

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

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

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

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

Table 2. Breakdown of Estimated Total Costs per Fiscal Year

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

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

Staff Recommendation

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

² Exhibit A.

STAFF ANALYSIS

Summary of the Mandate

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

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

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

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

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

A. One-Time Activity

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

B. On-going Activity

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

Reimbursement Period Begins January 1, 2001⁵:

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

C. One-Time Activities

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

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

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

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

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

D. Ongoing Activities

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

Statewide Cost Estimate

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

Assumptions

Staff made the following assumptions:

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

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

⁸ Claims data reported as of November 3, 2005.

Methodology

Fiscal Years 1999-2000 through 2004-2005

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

Fiscal Years 2005-2006 and 2006-2007

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

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

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

Table 2. Breakdown of Estimated Total Costs per Fiscal Year

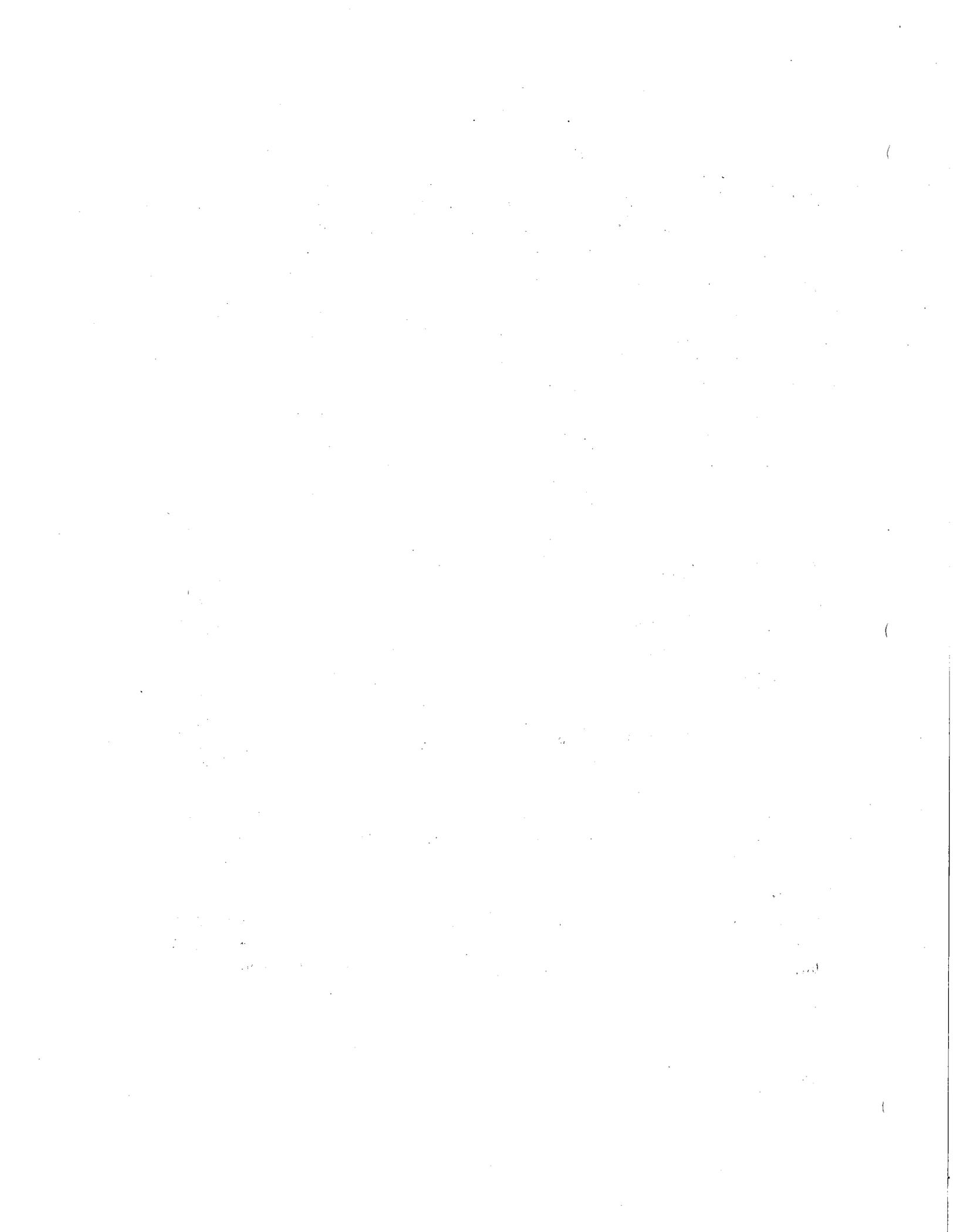
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TOTAL	27	126,024

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

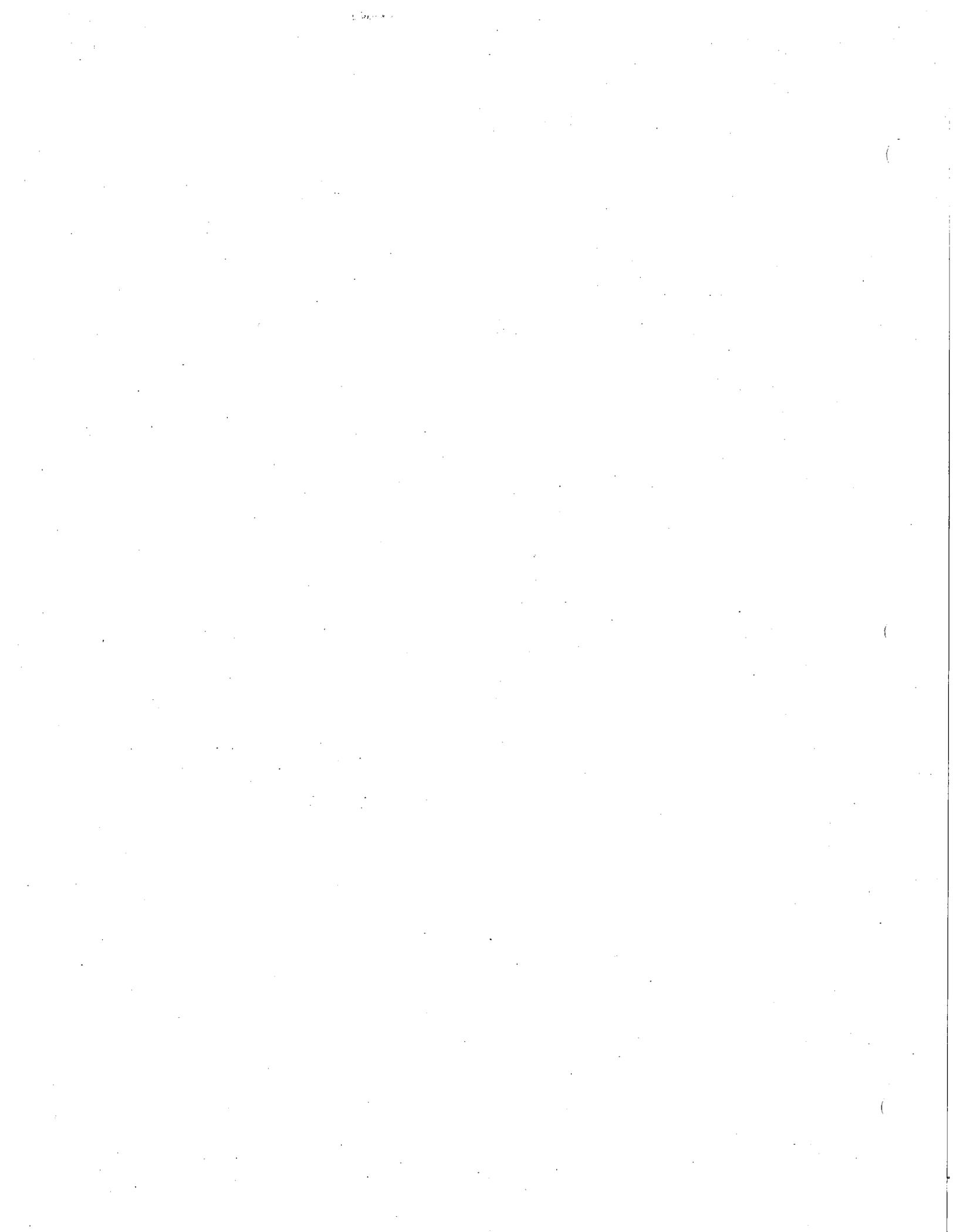
Staff Recommendation

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

⁹ Exhibit A.



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AUDITOR/CONTROLLER-RECORDER COUNTY CLERK



COUNTY OF SAN BERNARDINO

AUDITOR/CONTROLLER • 222 West Hospitality Lane, Fourth Floor,
San Bernardino, CA 92415-0018 • (909) 387-8322 • Fax (909) 386-8830
RECORDER • COUNTY CLERK • 222 West Hospitality Lane, First Floor
San Bernardino, CA 92415-0022 • (909) 387-8306 • Fax (909) 386-8840

LARRY WALKER
Auditor/Controller-Recorder
County Clerk

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



January 4, 2006

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

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

Dear Ms. Patton:

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

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

Sincerely,

Bonnie Ter Keurst
Reimbursable Projects Section Manager

BTK:jp

Commission on State Mandates

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

Related Matter(s)

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

TO ALL PARTIES AND INTERESTED PARTIES:

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

Ms. Annette Chinn

Cost Recovery Systems, Inc.
 705-2 East Bidwell Street, #294
 Folsom, CA 95630

Tel: (916) 939-7901

Fax: (916) 939-7801

Mr. David Wellhouse

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

Tel: (916) 368-9244

Fax: (916) 368-5723

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. Steve Keil

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

Tel: (916) 327-7523

Fax: (916) 441-6507

Ms. Harmeet Barkschat

Mandate Resource Services
 5325 Elkhorn Blvd. #307
 Sacramento, CA 95842

Tel: (916) 727-1350

Fax: (916) 727-1734

Ms. Bonnie Ter Keurst

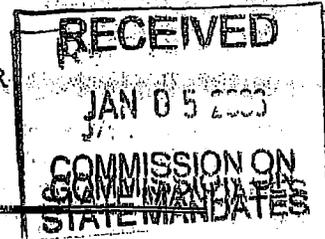
County of San Bernardino
 Office of the Auditor/Controller-Recorder
 222 West Hospitality Lane
 San Bernardino, CA 92415-0018

Claimant

Tel: (909) 386-8850

Fax: (909) 386-8830

COUNTY OF SAN BERNARDINO
AUDITOR/CONTROLLER-RECORDER



FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Ms. Nancy Patton, Assistant Executive Director	Wendy Sulzmann/Debbie Pittenger (909) 386-8821 On behalf of Bonnie Ter Keurst Manager, Reimbursable Projects Section
COMPANY:	DATE:
Commission on State Mandates	1/5/06
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
916-445-0278	5
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:
Proposed Statewide Cost Estimate False Reports of Police Misconduct 00FC-26	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

222 W. HOSPITALITY LANE, SAN BERNARDINO, CA 92415-0018
FAX: (909) 386-8830

Commission on State Mandates

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

Related Matter(s)

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

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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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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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Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1190 Sacramento, CA 95814	Tel: (916) 445-3274 Fax: (916) 324-4868
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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) 441-6507
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Ms. Harmeet Barkschat Mandate Resource Services 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Fax: (916) 727-1734
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Ms. Bonnie Ter Keurst County of San Bernardino Office of the Auditor/Controller-Recorder 222 West Hospitality Lane San Bernardino, CA 92415-0018	Claimant Tel: (909) 386-8850 Fax: (909) 386-8830
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Ms. Pam Stone
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841
Tel: (916) 485-8102
Fax: (916) 485-0111

Ms. Jesse McGuinn
Department of Finance (A-15)
915 L Street, 8th Floor
Sacramento, CA 95814
Tel: (916) 445-8913
Fax: (916) 327-0225

Mr. Steve Smith
Steve Smith Enterprises, Inc.
4633 Whitney Avenue, Suite A
Sacramento, CA 95821
Tel: (916) 483-4231
Fax: (916) 483-1403

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

Mr. Keith B. Petersen
SixTen & Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117
Tel: (858) 514-8605
Fax: (858) 514-8645

Mr. Jim Jagers
Axlom, Inc.
2440 Gold River Road, Suite 200
Gold River, CA 95670
Tel: (916) 853-6000
Fax: (916) 351-1020

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

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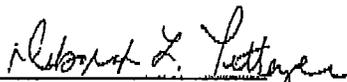
PROOF OF SERVICE

I, the undersigned, declare as follows:

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 5, 2006 at San Bernardino, California.


DEBORAH L. PITTENGER

Commission on State Mandates

Original List Date: 7/6/2001 Mailing Information: Other
Last Updated: 6/8/2004
List Print Date: 01/11/2006 **Mailing List**
Claim Number: 00-TC-26
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Related

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Sacramento, CA 95814

Tel: (916) 445-3274
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Office of the Auditor/Controller-Recorder
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Tel: (909) 386-8850
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Ms. Pam Stone
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4320 Auburn Blvd., Suite 2000
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Mr. Jim Jagers

P.O. Box 1993
Carmichael, CA 95609

Tel:
Fax:

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

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