

**COMMISSION ON STATE MANDATES**

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February 18, 1009

Ms. Nancy Gust  
County of Sacramento  
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*And Interested Parties and Affected State Agencies (See Enclosed Mailing List)*

**RE: Draft Staff Analysis, Proposed Statewide Cost Estimate, and Hearing Date**  
*Racial Profiling: Law Enforcement Training (01-TC-01)*  
County of Sacramento, Claimant  
Statutes of 2000, Chapter 684

Dear Ms. Gust:

The draft staff analysis and proposed statewide cost estimate for this test claim are enclosed for your review and comment.

**Written Comments**


Any party or interested person may file written comments on the draft staff analysis by **Thursday, March 5, 2009**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

**Hearing**

This test claim is set for hearing on **Friday, March 27, 2009** at 9:30 a.m. in Room 447 of the State Capitol, Sacramento, California. The final staff analysis will be issued on or about March 13, 2009. This matter is proposed for the Consent Calendar. 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)(2), of the Commission's regulations.

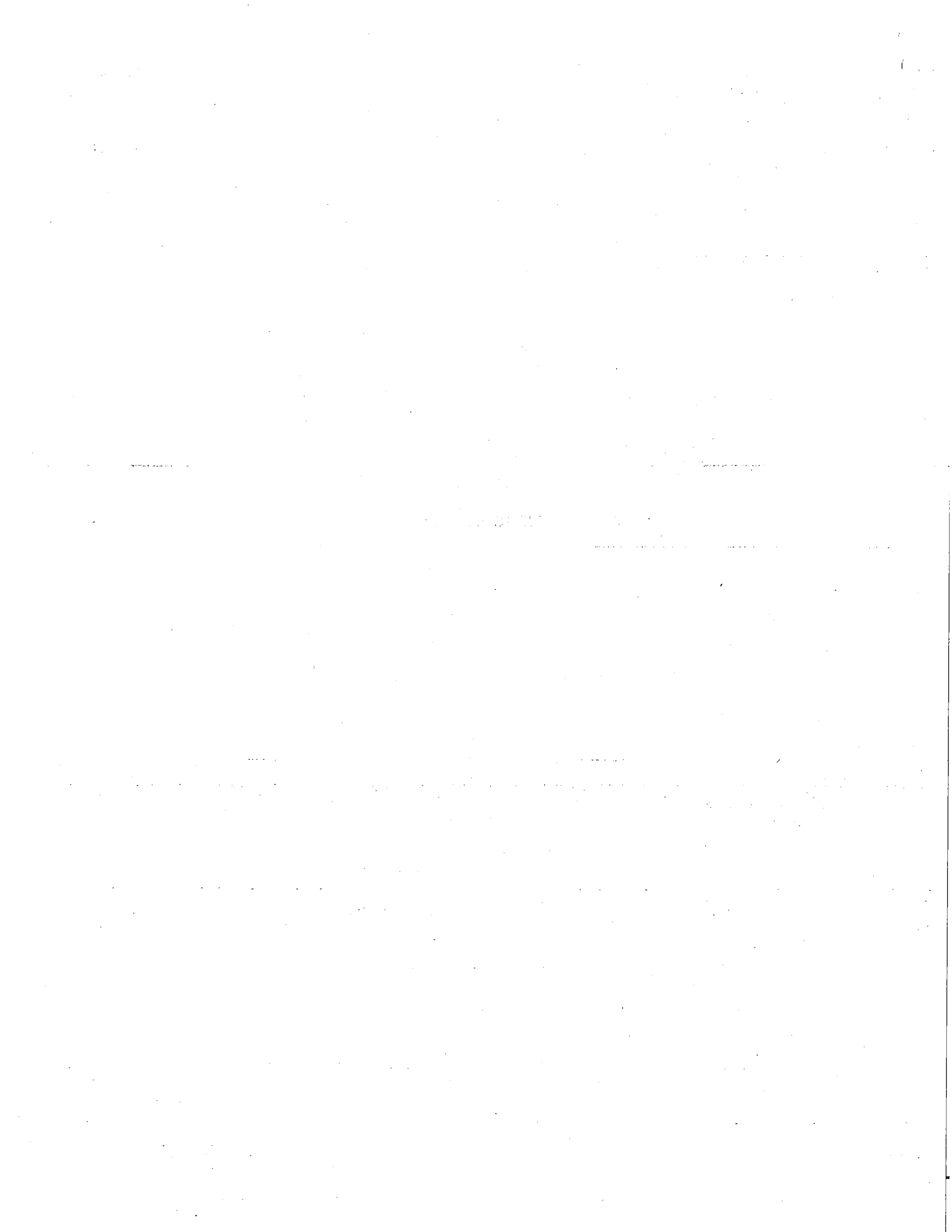
Please contact Nancy Patton at (916) 323-8217 with any questions.

Sincerely,

  
PAULA HIGASHI  
Executive Director

Enclosure

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**ITEM \_\_\_\_\_**  
**DRAFT STAFF ANALYSIS**  
**STATEWIDE COST ESTIMATE**

Penal Code Section 13519.4

Statutes 2000, Chapter 684

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

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**EXECUTIVE SUMMARY**

The proposed statewide cost estimate includes five fiscal years for a total of **\$9,175,357** for the *Racial Profiling: Law Enforcement Training* program. Following is a breakdown of estimated total costs per fiscal year:

| <b>Fiscal Year</b> | <b>Number of Claims Filed with SCO</b> | <b>Estimated Cost</b> |
|--------------------|--|-----------------------|
| 2000-2001          | 1                                      | \$4,292               |
| 2001-2002          | 10                                     | \$70,053              |
| 2002-2003          | 68                                     | \$2,764,216           |
| 2003-2004          | 95                                     | \$6,210,441           |
| 2004-2005          | 13                                     | \$126,355             |
| <b>TOTAL</b>       | <b>187</b>                             | <b>9,175,357</b>      |

**Summary of the Mandate**

This test claim statute prohibits law enforcement officers from engaging in racial profiling and establishes racial profiling training requirements for law enforcement officers, with the curriculum developed by the Commission on Peace Officer Standards and Training (POST).

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Racial Profiling: Law Enforcement Training* program (01-TC-01). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for *up to five hours* of initial racial profiling training for incumbent law enforcement officers under certain conditions.

**Statewide Cost Estimate**

Staff reviewed the claims data submitted by 100 cities and 18 counties and compiled by the SCO. The actual claims data showed that 187 claims were filed between fiscal years 2000-2001 and 2004-2005 for a total of \$9,175,357.<sup>1</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

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<sup>1</sup> Claims data reported as of December 8, 2008.

### Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*
2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) did not have supporting documentation to file a reimbursement claim; or (3) did not complete the training within the prescribed time period.*
3. *Claimants will not need to train new peace officers employed after January 1, 2004, under this program, because racial profiling training was included as part of their basic training on that date.*
4. *There is a wide variation in costs among claimants.*
5. *Because of the wide variation in costs claimed, an SCO audit of this program is likely.*
6. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

### Methodology

#### *Fiscal Years 2000-2001 through 2004-2005*

The proposed statewide cost estimate for fiscal years 2000-201 through 2004-2005 was developed by totaling the 187 unaudited actual reimbursement claims filed with the SCO for these years.

No projections for future fiscal years were included because most reimbursement claims for this program were filed between 2000-2001 and 2004-2005.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$9,175,357** for costs incurred in complying with the *Racial Profiling: Law Enforcement Training* program.

## STAFF ANALYSIS

### Summary of the Mandate

This test claim statute prohibits law enforcement officers from engaging in racial profiling and establishes racial profiling training requirements for law enforcement officers, with the curriculum developed by the Commission on Peace Officer Standards and Training (POST).

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Racial Profiling: Law Enforcement Training* program (01-TC-01). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The Commission further found that Penal Code section 13519.5, subdivision (i), which requires the two-hour refresher racial profiling training, does not impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, because it does not impose "costs mandated by the state."

The claimant filed the test claim on August 13, 2001. The Commission adopted a Statement of Decision on October 26, 2006 and the parameters and guidelines on March 28, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 1, 2008, and late claims by October 1, 2009.

### Reimbursable Activities

The Commission approved reimbursement for *up to five hours* of initial racial profiling training for incumbent law enforcement officers under the following conditions.

1. the training is provided to incumbent law enforcement officers who completed basic training on or before January 1, 2004;
2. the training is certified by POST;
3. the training is attended during the officer's regular work hours, or training is attended outside the officer's regular work hours *and* there is an obligation imposed by an MOU existing on January 1, 2001, which requires that the local agency pay for continuing education training; and
4. the training causes the officer to exceed his or her 24-hour continuing education requirement, when the two-year continuing education cycle that included the initial five-hour racial profiling training occurs between January 1, 2002 and July 2004, and the continuing education for that cycle was attended *prior to* the initial racial profiling course.

### Statewide Cost Estimate

Staff reviewed the claims data submitted by 100 cities and 18 counties and cities and compiled by the SCO. The actual claims data showed that 187 claims were filed between fiscal years 2000-2001 and 2004-2005 for a total of \$9,175,357.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

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<sup>2</sup> Claims data reported as of December 8, 2008.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 480 cities and 58 counties in California. Of those, only 118 filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate.

However, under this program, reimbursement is only authorized for training incumbent peace officers who completed the training between 2002 and 2004. No reimbursement claims have been filed for any fiscal years after 2004-2005. Therefore, it is unlikely that further claims will be filed.

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) did not have supporting documentation to file a reimbursement claim; or (3) did not complete the training within the prescribed time period.*

This program limits reimbursement for incumbent peace officers who complete basic training prior to 2004, and who complete their 24-hour education requirements including racial profiling training, between 2002 and 2004. Therefore, while many local agencies may have provided racial profile training to all of their peace officers, only a limited number of local agencies met these narrow criteria and were eligible for reimbursement for a select number of peace officers.

3. *Claimants will not need to train new peace officers employed after January 1, 2004 under this program, because racial profiling training was included as part of their basic training on that date.*
4. *There is a wide variation in costs among claimants.*

There is a wide variation in costs among claimants. For example, the City of Fairfield with 127 peace officers claimed approximately \$8,000, while the City of Orange, with 167 peace officers, claimed almost \$60,000. Following is a table showing a sample of claimants and their claimed amounts:

**Table 1. COMPARISON OF COSTS CLAIMED**

| City or County          | Number of Peace Officers Employed | Amount of Reimbursement Claim |
|-------------------------|-----------------------------------|-------------------------------|
| City of Fairfield       | 127                               | \$8,041                       |
| City of Orange          | 162                               | \$59,928                      |
| City of Los Angeles     | 9,538                             | \$3,817,668                   |
| County of Los Angeles   | 9,278                             | \$1,569,364                   |
| City of Corona          | 181                               | \$9,199                       |
| City of Hayward         | 194                               | \$41,388                      |
| County of Santa Barbara | 309                               | \$59,570                      |
| County of San Joaquin   | 296                               | \$94,195                      |

The amount claimed for reimbursement varied among claimants with like numbers of peace officers because:

- Claimants had varying numbers of peace officers who completed the training prior to 2004.
  - Claimants had varying numbers of peace officers who completed their continuing education requirements between 2002 and 2004.
  - According to claimant representatives, some claimants chose not to train all peace officers.
5. *Because of the wide variation in costs claimed, an SCO audit of this program is likely.*
  6. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because 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 be reduced.

Methodology

*Fiscal Years 2000-2001 through 2004-2005*

The proposed statewide cost estimate for fiscal years 2000-201 through 2004-2005 was developed by totaling the 187 unaudited actual reimbursement claims filed with the SCO for these years.

No projections for future fiscal years were included because this program should have been completed on or before fiscal year 2004-2005.

The proposed statewide cost estimate includes five fiscal years for a total of \$9,175,357. This averages to \$1,835,071 annually in costs for the state for this five-year period. Following is a breakdown of estimated total costs per fiscal year:

**TABLE 2. BREAKDOWN OF ESTIMATED TOTAL COSTS PER FISCAL YEAR**

| <b>Fiscal Year</b> | <b>Number of Claims Filed with SCO</b> | <b>Estimated Cost</b> |
|--------------------|--|-----------------------|
| 2000-2001          | 1                                      | \$4,292               |
| 2001-2002          | 10                                     | \$70,053              |
| 2002-2003          | 68                                     | \$2,764,216           |
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| 2004-2005          | 13                                     | \$126,355             |
| <b>TOTAL</b>       | <b>187</b>                             | <b>9,175,357</b>      |

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$9,175,357 for costs incurred in complying with the *Racial Profiling: Law Enforcement Training* program.





# Commission on State Mandates

Original List Date: 8/13/2001  
Last Updated: 4/26/2007  
List Print Date: 02/18/2009  
Claim Number: 01-TC-01  
Issue: Racial Profiling: Law Enforcement Training

Mailing Information: Draft Staff Analysis

## 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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