

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES  
ON:

Penal Code Section 14250  
Statutes 2000, Chapter 822

Filed on July 5, 2001

By County of San Bernardino, Claimant  
and

Penal Code Section 14250  
Statutes 2001, Chapter 467

Filed on June 25, 2003

By County of Los Angeles, Claimant

No. 00-TC-27

*DNA Database*

and

No. 02-TC-39

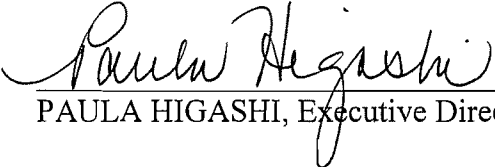
*Amendment to Postmortem Examinations:  
Unidentified Bodies*

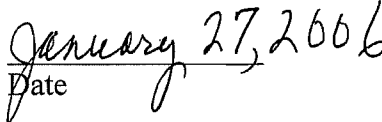
ADOPTION OF PARAMETERS AND  
GUIDELINES PURSUANT TO  
GOVERNMENT CODE SECTION 17557  
AND TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, SECTION 1183.12

*(Adopted on January 26, 2006)*

**PARAMETERS AND GUIDELINES**

On January 26, 2006, the Commission on State Mandates adopted the attached Parameters and Guidelines.

  
PAULA HIGASHI, Executive Director

  
Date

## PARAMETERS AND GUIDELINES

Penal Code Section 14250

Statutes 2000, Chapter 822

Statutes 2001, Chapter 467

*DNA Database (00-TC-27)*

and amendment to

*Postmortem Examinations: Unidentified Bodies (02-TC-39)*

County of San Bernardino and County of Los Angeles, Claimants

### I. SUMMARY OF THE MANDATE

On September 30, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision that Penal Code section 14250 constitutes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to perform the following activities:

- For coroners to collect samples for DNA testing from the remains of unidentified persons and send the samples to [the Department of Justice (DOJ)] in accordance with the DOJ-developed standards and guidelines [see DOJ Information Bulletins 01-BFS-04 and 02-BFS-03] for preservation and storage of DNA samples (Pen. Code, § 14250, subs. (b) & (c)(1)). This does not include storing DNA samples from remains of unidentified deceased persons either before sending to DOJ or upon return. It does include exhumation in circumstances where it is the only alternative available to meet the reporting needs under the test claim statute.
- For local law enforcement to: (1) inform parents or other appropriate relatives of those missing under high-risk circumstances (as defined) that they may give a voluntary sample of DNA within 30 days after making a report, and (2) take a DNA sample in a manner prescribed by DOJ, including using a model kit (Pen. Code, § 14250, subs. (c)(2) & (c)(4)).
- For local law enforcement to: (1) reverify the status of a missing person before submitting a DNA sample to DOJ, and (2) send the DNA sample and any supplemental information to DOJ with the crime report 30 days after the filing of a report (Pen. Code, § 14250, subd. (c)(5)).

### II. ELIGIBLE CLAIMANTS

Any county, city, or city and county 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, subdivision (e), as amended by Statutes 2004, chapter 890, 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 County of San Bernardino filed

the *DNA Database* test claim on July 5, 2001. However, Statutes 2000, chapter 822 became effective and operative on January 1, 2001. Accordingly, costs incurred in compliance with Statutes 2000, chapter 822 on or after January 1, 2001, are eligible for reimbursement.

The County of Los Angeles filed the test claim amendment to *Postmortem Examinations: Unidentified Bodies* on June 25, 2003. However, Statutes 2001, chapter 467, which became effective and operative on January 1, 2002, only clarified Penal Code section 14250 and did not require additional activities.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial year's costs shall be submitted to the 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 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, 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 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. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

##### A. Coroners: One-Time Activities

1. Develop internal policies and procedures to implement the activities listed under Sections IV.A. and IV.B. of these parameters and guidelines.
2. Train each staff person who may be required to initiate, prepare, or file some or all of the subject DOJ samples for complying with DOJ's reporting requirements. (*One-time activity per employee*).

## B. Coroners: Ongoing Activities

1. Collecting samples for DNA testing from the remains of all unidentified persons. This includes exhumation in circumstances where it is the only alternative available to meet the reporting needs under the test claim statute (Pen. Code, § 14250, subs. (b) & (c)(1)). This also includes reburial of the remains to the extent the person remains unidentified or there is no family to which to return the remains.
2. Sending collected samples to DOJ in accordance with DOJ-developed standards and guidelines for preservation and storage of DNA samples (Pen. Code, § 14250, subs. (b) & (c)(1); DOJ Information Bulletin 01-BFS-04).

## C. Law Enforcement: One-Time Activities

1. Develop internal policies and procedures to implement the activities listed under Sections IV.C. and IV.D. of these parameters and guidelines.
2. Training for each law enforcement personnel involved in collecting DNA samples, limited to 20 minutes. Agencies may choose to have employees view the 20-minute Missing Persons DNA training video developed by the Commission on Peace Officer Standards and Training and the Office of the Attorney General (DOJ Information Bulletin 02-BFS-03). (*One-time activity per employee.*)

## D. Law Enforcement: Ongoing Activities

1. Within 30 days after making a report, informing the parents or other appropriate relatives of those missing under high-risk circumstances (as defined by Pen. Code, § 14250, subd. (a)(4)) that they may give a voluntary sample for DNA testing or may collect a DNA sample from a personal article belonging to the missing person, if available (Pen. Code, § 14250, subs. (c)(2) & (c)(4)). This includes explanation of the standard release form developed by DOJ.2. Taking DNA samples in a manner prescribed by DOJ, including the use of model DNA sample kits (Pen. Code, § 14250, subs. (c)(2) & (c)(4); DOJ Information Bulletin 02-BFS-03).
3. Reverifying the status of a missing person before submitting a DNA sample to DOJ (Pen. Code, § 14250, subd. (c)(5)).
4. After 30 days has elapsed from the date the report was filed, sending the DNA sample and any supplemental information to DOJ with a copy of the crime report (Pen. Code, § 14250, subd. (c)(5)).

## **V. CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed 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 the 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 are 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 attorney 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.

## 6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost

of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

## 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 both (1) 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 direct 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 costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular 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 distribution 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) separating 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. RECORD 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 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. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. 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 from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim. Any funds distributed to counties by DOJ for purposes of pathology and exhumation pursuant to Penal Code section 14251, subdivision (b), shall also be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts 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)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon 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 adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall 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 (d), and California Code of Regulations, title 2, section 1183.2.

**X. 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.