BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Welfare Institutions Code Sections 6250 and 6600 through 6608; as added and amended by Statutes of 1995, Chapter 762; Statutes of 1995, Chapter 763; Statutes of 1996, Chapter 4; And filed on May 30, 1996; By County of Los Angeles, Claimant.	NO. CSM-4509 *Sexually Violent Predators* ADOPTION OF STATEWIDE COST ESTIMATE UNDER GOVERNMENT CODE SECTION 17557 AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1183.3

ADOPTED STATEWIDE COST ESTIMATE

On March 25, 1999, the attached Statewide Cost Estimate was adopted by the Commission on State Mandates as its Decision in the above-entitled matter. The total estimate is $14,685,000 (r) for fiscal years 1995-1996 through 1999-/2000, inclusive.

Date: March 26, 1999

Paula Higashi

PAULA HIGASHI, Executive Director

Adopted: March 25, 1999
Claim: CSM-4509
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Document Date: March 12, 1999

Item #11

Proposed Statewide Cost Estimate

Welfare and Institutions Code Sections 6250 and 6600 through 6608
Statutes of 1995, Chapter 762
Statutes of 1995, Chapter 763
Statutes of 1996, Chapter 4

Sexually Violent Predators

Executive Summary

The test claim statutes established new civil commitment procedures for the continued detention and treatment of sexually violent offenders following their completion of a prison term for certain sex-related offenses. Before detention and treatment are imposed, the county attorney is required to file a petition for civil commitment. A trial is then conducted to determine if the inmate is a sexually violent predator beyond a reasonable doubt. If the inmate accused of being a sexually violent predator is indigent, the test claim legislation requires counties to provide the indigent with the assistance of counsel and experts necessary to prepare the defense.

The Commission adopted the parameters and guidelines for this claim on September 24, 1998.

Costs incurred for Chapter 762, Statutes of 1995 and Chapter 763, Statutes of 1995, are eligible for reimbursement on or after January 1, 1996. Costs incurred for Chapter 4, Statutes of 1996, regarding transport and secured custody of defendants, are eligible for reimbursement on or after January 25, 1996.

A pre-hearing conference was held December 17, 1998 to discuss the statewide cost estimate. The pre-hearing was attended by representatives from Los Angeles County, the California State Association of Counties, SB 90 Service, and the Department of Mental Health. Subsequently, a survey was sent to all SB 90 coordinators to collect data for the estimate.

Summary of the Reimbursement Process

Not later than 60 days after receiving the Commission's adopted parameters and guidelines, the Controller must issue claiming instructions for each reimbursable state mandate. (Gov. Code, § 17558.)

Each eligible local agency or school district must submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions. The Controller must pay any eligible claim within 60 days after the filing deadline for reimbursement claims or 15 days after the date the appropriation is effective (i.e., the subsequent claims bill), whichever is later. Any initial reimbursement claim filed after the filing deadline will be reduced by 10 percent of the amount allowed for a timely filed claim,

not to exceed one thousand dollars ($1000). The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available after payment of all timely filed claims. Reimbursement claims submitted more than one year after the filing deadline will not be paid. (Gov. Code, § 17560.)

Interested Party Comments

Staff will report at the hearing.

Methodology

To arrive at the total statewide cost estimate, staff:

- Mailed a survey instrument to all County SB 90 coordinators on February 11, 1999.
- Used survey responses from 30 counties to calculate estimated claimed totals that will be filed with the State Controller. The survey responses represent approximately 89 percent of the total statewide Sexually Violent Predator population.[1]
- Based on the assumption that non-respondent counties with less than three sexually violent predators will not file reimbursement claims, subtracted the total caseload of counties with fewer than three sexually violent predators from the total caseload (644 – 10 = 634).
- Divided the caseload of the counties that responded to the survey by the statewide total less the caseload of the counties with fewer than three sexually violent predators to arrive at the proportion of the caseload represented in the survey results (576 / 634 = 91%).
- Divided the total costs reported for each fiscal year by 91 percent to arrive at a total statewide estimate which accounts for eligible claimants that did not respond to the survey but that are expected to file claims ($733,615 / .91 = $806,170).
- Projected the 1999-00 fiscal year total by multiplying the total estimate for the 1998-99 fiscal year by the implicit price deflator.[2]

Recommendation

Staff recommends that the Commission adopt this proposed statewide cost estimate in the amount of $14,685,000 for costs incurred in complying with the provisions set forth in Welfare and Institutions Code sections 6250 and 6600 through 6608, Statutes of 1995, Chapter 762, Statutes of 1995, Chapter 763, Statutes of 1996, Chapter 4.

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[1] W.I.C. 6600 Case Summary: Referrals to DA by Committing County, dated March 8, 1999.

[2] As projected by the Department of Finance.

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

Fiscal Year	**Total**
1995-96	$806,170
1996-97	$2,096,278
1997-98	$3,928,326
1998-99	$3,878,430
1999-00	$3,975,391
Total	$14,684,595
Total (rounded)	**$14,685,000**

Because the reported costs are prior to audit and partially based on estimates, the statewide cost estimate of $14,684,595 has been rounded to $14,685,000.

Statewide Cost Estimate Calculation

Welfare and Institutions Code Sections 6250 and 6600 through 6608
Statutes of 1995, Chapter 762,
Statutes of 1995, Chapter 763,
Statutes of 1996, Chapter 4

Sexually Violent Predators

Mandate Background

The test claim statutes established new civil commitment procedures for the continued detention and treatment of sexually violent offenders following their completion of a prison term for certain sex-related offenses. Before detention and treatment are imposed, the county attorney is required to file a petition for civil commitment. A trial is then conducted to determine if the inmate is a sexually violent predator beyond a reasonable doubt. If the inmate accused of being a sexually violent predator is indigent, the test claim legislation requires counties to provide the indigent with the assistance of counsel and experts necessary to prepare the defense.

On June 25, 1998, the Commission adopted a Statement of Decision which approved reimbursement for the following services:

- Designation by the County Board of Supervisors of the appropriate District Attorney or County Counsel who will be responsible for the sexually violent predator civil commitment proceedings. (Welf. & Inst. Code, § 6601, subd. (I).)
- Initial review of reports and records by the county's designated counsel to determine if the county concurs with the state's recommendation. (Welf. & Inst. Code, § 6601, subd. (I).)
- Preparation and filing of the petition for commitment by the county's designated counsel. (Welf. & Inst. Code, § 6601, subd. (j).)
- Preparation and attendance by the county's designated counsel and indigent defense counsel at the probable cause hearing. (Welf. & Inst. Code, § 6602.)
- Preparation and attendance by the county's designated counsel and indigent defense counsel at trial. (Welf. & Inst. Code, §§ 6603 and 6604.)
- Preparation and attendance by the county's designated counsel and indigent defense counsel at subsequent hearings regarding the condition of the sexually violent predator. (Welf. & Inst. Code, §§ 6605, subds. (b) through (d), and 6608, subds. (a) through (d).)
- Retention of necessary experts, investigators, and professionals for preparation for trial and subsequent hearings regarding the condition of the sexually violent predator. (Welf. & Inst. Code, §§ 6603 and 6605, subd. (d).)

- Transportation and housing for each potential sexually violent predator at a secured facility while the individual awaits trial on the issue of whether he or she is a sexually violent predator. (Welf. & Inst. Code, § 6602.)

The Commission adopted the parameters and guidelines for this claim on September 24, 1998.

Costs incurred for Statutes of 1995, Chapter 762 and Statutes of 1995, Chapter 763 are eligible for reimbursement on or after January 1, 1996. Costs incurred for Statutes of 1996, Chapter 4 regarding transport and secured custody of defendants, are eligible for reimbursement on or after January 25, 1996.

Interested Party Comments

Staff will report at the hearing.

Eligible Claimants

The eligible claimants are counties or cities and counties.

Reimbursable Activities

For each eligible claimant, all direct and indirect costs of labor, supplies and services, for the following activities only are eligible for reimbursement:

A. Designation by the County Board of Supervisors of the appropriate District Attorney or County Counsel who will be responsible for the sexually violent predator civil commitment proceedings.

   1. Development of internal policies and procedures (one-time activity).
   2. One-time training for each employee who normally works on the sexually violent predator program on the county's internal policies and procedures.

   The following reimbursable activities must be specifically identified to a defendant:

   1. Initial review of reports and records by the county's designated counsel to determine if the county concurs with the state's recommendation. Such activity includes the following:
      a. Secretarial and paralegal services to assist the county's designated counsel; and
      b. Copying and making long distance telephone calls.
      c. Investigator services that are necessary to determine the sufficiency of the factual evidence supporting a petition.
   2. Preparation and filing of the petition for commitment by the county's designated counsel. Such activities include secretarial and paralegal services to assist the county's designated counsel in the preparation and filing of the petition for commitment.
   3. Preparation and attendance by the county's designated counsel and indigent defense counsel at the probable cause hearing. Preparation for the probable cause hearing includes the following:

a. Secretarial, paralegal and investigator services;

b. Copying and making long distance telephone calls; and

c. Travel.

4. Preparation and attendance by the county's designated counsel and indigent defense counsel at pre-trial and trial hearings. Preparation for the pre-trial and trial hearings include the following:

   a. Secretarial, paralegal and investigator services;

   b. Copying and making long distance telephone calls; and

   c. Travel.

5. Preparation and attendance by the county's designated counsel and indigent defense counsel at subsequent hearings regarding the condition of the sexually violent predator. Preparation for the subsequent hearings includes the following:

   a. Secretarial, paralegal and investigator services;

   b. Copying and making long distance telephone calls; and

   c. Travel.

6. Retention of court-approved experts, investigators, and professionals for the indigent defendant in preparation for trial and subsequent hearings regarding the condition of the sexually violent predator. Such activity includes the following:

   a. Copying and long distance telephone calls made by the court-approved expert, investigator and/or professional; and

   b. Travel.

7. Transportation and housing costs for each potential sexually violent predator at a secured facility while the individual awaits trial on the issue of whether he or she is a sexually violent predator. Counties shall be entitled to reimbursement for such transportation and housing costs, regardless of whether the secured facility is a state facility or county facility, except in those circumstances when the State has directly borne the costs of housing and transportation, in which case no reimbursement of such costs shall be permitted.

Methodology

To arrive at the total statewide cost estimate, staff:

- Mailed a survey instrument to all County SB 90 coordinators on February 11, 1999.
- Used survey responses from 30 counties to calculate estimated claimed totals that will be filed with the State Controller. The survey responses represent approximately 89 percent of the total statewide Sexually Violent Predator population.[3]
- Based on the assumption that non-respondent counties with less than three sexually violent predators will not file reimbursement claims, subtracted the total caseload of counties with fewer than three sexually violent predators from the total caseload (644 - 10 = 634).
- Divided the caseload of the counties that responded to the survey by the statewide total less the caseload of the counties with fewer than three sexually violent predators to arrive at the proportion of the caseload represented in the survey results (576 / 634 = 91%).
- Divided the total costs reported for each fiscal year by 91 percent to arrive at a total statewide estimate which accounts for eligible claimants that did not respond to the survey but that are expected to file claims ($733,615 / .91 = $806,170).
- Projected the 1999-00 fiscal year total by multiplying the total estimate for the 1998-99 fiscal year by the implicit price deflator.[4]

Assumptions

Staff made the following assumptions:

- Since reimbursement claims are due to the State Controller on or before March 30, 1999, the survey data accurately reflect the costs that will be submitted in the actual reimbursement claims by all eligible claimants.
- Non-respondent counties that have a sexually violent predator caseload of less than three will not file claims because their program costs will not qualify for reimbursement or the cost of filing the claim will exceed the costs of operating the program.[5]
- The aggregate survey data represents approximately 91 percent of the costs that will be claimed based on the statewide sexually violent predator caseload minus the total number of cases in non-respondent counties with less than three sexually violent predators.[6]
- The statewide costs of the program will level out in the 1998-99 fiscal year because savings in improved operational efficiencies will offset increased costs related to cases that are more complex.

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[3] W.I.C. 6600 Case Summary: Referrals to DA by Committing County, dated March 8, 1999.

[4] As projected by the Department of Finance.

[5] As discussed with a representative of DMG Maximus and California State Association of Counties.

[6] As reported by the Department of Mental Health.

Recommendation

Staff recommends that the Commission adopt this proposed statewide cost estimate in the amount of $14,685,000 for costs incurred in complying with the provisions set forth in Welfare and Institutions Code sections 6250 and 6600 through 6608, Statutes of 1995, Chapter 762, Statutes of 1995, Chapter 763, and Statutes of 1996, Chapter 4.

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

Total Reported Amounts and Projections by Fiscal Year*

FISCAL YEAR	REPORTED	DIVIDED BY		TOTAL ESTIMATE
1995-96	$733,615	0.91	=	$ 806,170
1996-97	$1,907,613	0.91	=	$ 2,096,278
1997-98	$3,574,777	0.91	=	$ 3,928,326
1998-99 Est.	$3,529,371	0.91	=	$ 3,878,430
1999-00 Projection (2.5%)**	$0		=	$ 3,975,391
Total				$14,684,595
Statewide Cost Estimate Total* **				**$14,685,000**

*Current data as of February 1999.
**Total Estimate for FY 1998-99 multiplied by the Implicit Price Deflator (as forecasted by Department of Finance).
***The total is rounded.