



# County of San Diego

**RECEIVED**  
April 25, 2014  
**Commission on  
State Mandates**

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April 25, 2014

Ms. Heather Halsey  
Executive Director  
California Commission on State Mandates  
900 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: County of San Diego's Comments in Response to Request for Additional Briefing and Evidence on Costs Pertaining to Housing Potential Sexually Violent Predators  
Mandate Redetermination Request 12-MR-01  
*Sexually Violent Predators*, (CSM 4509)  
Welfare and Institutions Code Sections 6601 through 6608  
Statutes 1995, Chapter 762; Statutes 1995, Chapter 763;  
Statutes 1996, Chapter 4  
Requestor: California Department of Finance

Dear Ms. Halsey:

The County of San Diego, on behalf of the San Diego County Office of the Public Defender, the San Diego District Attorney's Office and the San Diego County Sheriff (collectively referred to as the "County"), hereby submits the following comments in response to your Request for Additional Briefing and Evidence on Costs Pertaining to Housing Potential Sexually Violent Predators filed April 4, 2014.

**Costs Related to the Housing of Each Potential Sexually Violent Predator during the Probable Cause Hearing Should Continue to be Reimbursable.**

Prior to the Probable Cause hearing, inmates are transported from the State facilities where they are incarcerated to San Diego County for the hearing and they generally remain in the Sheriff's custody through the conclusion of the probable cause hearing. If the court makes a finding that there is probable cause to hold a trial on the issue of whether an inmate is an SVP, the inmate generally will be returned to either the State Hospital or sent back to the State facility where they were incarcerated. (Ruiz Decl.

¶ 7.) In some instances, inmates may also remain in the Sheriff's custody after the probable cause hearing through trial. (*Id.*)

Inmates that are the subject of the SVP proceedings are housed by the California Department of Corrections and Rehabilitation at facilities throughout the state as far east as Calipatria and as far north as Coalinga. (Ingrassia Decl. ¶ 6.) When these inmates arrive in San Diego County for their SVP proceeding, they are generally brought to the San Diego Central Jail, processed and then transferred to and housed at the George Bailey Detention Facility in Otay Mesa. (Ingrassia Decl. ¶ 7.)

The Sheriff is responsible for housing these inmates for the duration of their stay in San Diego County, which often lasts several months. (Ingrassia Decl. ¶ 8.) Attached to the Declaration of Michael Ruiz as Exhibit 1, submitted herewith, is a representative sampling of inmates who have been in the Sheriff's custody pending their Probable Cause hearings. As evidenced by Exhibit 1, inmates are housed, on average, 120 days from the date of their booking into County jail to the commencement of the Probable Cause Hearing. (Ingrassia Decl. ¶ 10; Ruiz Decl. ¶ 6.)

The cost to house an inmate, which includes, among other things, the cost to process and intake an inmate, provide medical exams, staffing, utilities, and food varies between an average cost of \$107.50 per day at the George Bailey Correctional Facility to \$159.24 per day at the Central Jail. The State has previously reimbursed the Sheriff for the cost to house these inmates at the rate of \$71.87. (Ingrassia Decl. ¶ 11.)

Using the actual average cost, the average cost incurred by the Sheriff to house each inmate pending his probable cause hearing is between \$12,900 and \$19,108.80. These costs are exclusive of and in addition to the costs of housing inmates pending trial. (Ingrassia Decl. ¶ 12.)

Housing inmates for their probable cause hearings is a vital and necessary component to carrying out the balance of the mandated activities required by Welfare & Institutions Code ("W&I") sections 6600 through 6608 and should continue to be reimbursable. As a result of the provisions of W&I Code section 6602 requiring a probable cause hearing, alleged SVPs are either required to be transported and housed by the Sheriff two different times, once for the Probable Cause hearing, and once for the actual trial, or the alleged SVP remains in the custody of the Sheriff for an extended period of time, that would not have been necessary but for the Probable Cause hearing requirement. (Ruiz Decl. ¶ 9.)

**Conclusion**

For the reasons set forth above, the reimbursable activities identified in the draft expedited amendment to parameters and guidelines should be amended to read as follows:

For each eligible claimant, the following activities only are eligible for reimbursement:

1. 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. Retention of necessary experts, investigators, and professionals for preparation for the probable cause hearing regarding the condition of the sexually violent predator.
  - c. Copying and making long distance telephone calls; and
  - d. Travel.
2. Transportation for each potential sexually violent predator between the designated secured housing facility and the court only for purposes of a probable cause hearing. 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.

This activity does not include transportation and housing for purposes other than the probable cause hearing for potential sexually violent predators awaiting trial; ~~and does not include housing potential sexually violent predators pending the probable cause hearing or trial.~~

**Declaration**

I, Timothy Barry declare that I am employed as a Senior Deputy County Counsel for the County of San Diego; that I am familiar with the facts and issues presented in this matter; and that I am authorized to make this declaration on behalf of the County of San Diego.

Ms. Halsey

-4-

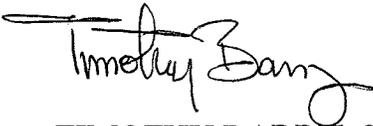
April 25, 2014

I further certify under penalty of perjury that the facts set forth in the foregoing comments and the attachment hereto are true and correct to the best of my own knowledge except as to matters stated on information and belief and as to those matters, I believe them to be true.

Executed this 25th day of April, 2014, in San Diego, California.

Very truly yours,

THOMAS E. MONTGOMERY, County Counsel

By   
TIMOTHY BARRY, Senior Deputy

TMB:nb  
13-90066

cc: Mr. Michael Ruiz  
Mr. John Rice  
Mr. Ronald Lane

## ATTACHMENT A

### DECLARATION OF MICHAEL F. RUIZ IN SUPPORT OF COUNTY OF SAN DIEGO'S COMMENTS IN RESPONSE TO REQUEST FOR ADDITIONAL BRIEFING AND EVIDENCE ON COSTS PERTAINING TO HOUSING POTENTIAL SEXUALLY VIOLENT PREDATORS

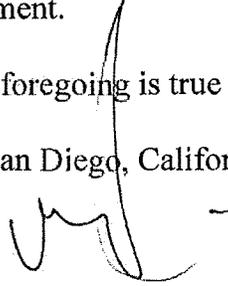
I, Michael F. Ruiz, declare as follows:

1. I make this declaration based on my own personal knowledge, except for matters set forth herein on information and belief, and as to those matters I believe them to be true, and if called upon to testify herein, I could and would competently testify to the following.
2. I am an attorney authorized to practice law in the State of California. I am employed as a Deputy Public Defender IV by the County of San Diego Department of Public Defender.
3. My employment responsibilities include litigating cases pursuant to Welfare & Institutions Code ("W&I Code") sections 6600 *et. seq.*, at all stages of the proceedings.
4. Our office represents individuals as respondent (defense) counsel at probable cause hearings held pursuant to W&I Code section 6602 and at the trials of such individuals and any subsequent hearings held pursuant to W&I Code sections 6603, 6604, 6605 and 6608, which may also require a separate probable cause hearing independent of the original commitment hearing.
5. I am informed that Commission staff has requested "additional briefing and evidence on whether activities and costs pertaining to housing potential SVPs pending or during a probable cause hearing, imposes a higher level of service than that required to house the potential SVP during trial and, if so, to specifically isolate those activities and costs that do not pertain to the eventual conduct of an SVP trial." This declaration is submitted in response to that request.
6. Attached to this declaration as Exhibit 1 is a representative sample of inmates that have had SVP Probable Cause hearings in San Diego Superior Court since January 1, 2011. The booking date information was obtained from the Sheriff's department and I believe that information to be accurate. As demonstrated on Exhibit 1, the average number of days in the custody of the San Diego County Sheriff prior to the commencement of the inmate's Probable Cause hearing is 120 days.
7. Generally, the alleged SVP is returned to Coalinga State Hospital after the probable cause determination, but often there are occasions when the alleged SVP will remain in the custody of the Sheriff, pending trial.
8. When the alleged SVP remains in the custody of the Sheriff, the average number of days in the custody of the Sheriff increases significantly because the actual trial may not occur for many months after the Probable Cause hearing.

9. As a result of the provisions of W&I Code section 6602 requiring a probable cause hearing, alleged SVPs are either required to be transported and housed by the Sheriff two different times, once for the Probable Cause hearing and once for the actual trial, or the alleged SVP remains in the custody of the Sheriff for an extended period of time that would not have been necessary but for the probable cause hearing requirement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of April, 2014 at San Diego, California.



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MICHAEL F. RUIZ

**EXHIBIT "1"**

<u>Inmate</u>	<u>Booking Date</u>	<u>SVP Probable Cause Hearing</u>	<u>Days in Cust. Prior to PC Hrg.</u>	<u>Return Location</u>
John C.	02/22/2012	04/27/2012	65	Coalinga
George C.	10/28/2012	02/27/2011	123	Released
Steven D.	04/18/2011	06/07/2011	51	Coalinga
Gary D.	10/11/2012	03/07/2013	127	Coalinga
Steven D.	05/09/2012	07/09/2012	62	Coalinga
Daniel H.	07/07/2011	11/21/2011	137	Coalinga
Mark M.	05/24/2011	09/12/2011	112	Coalinga
Alfredo M.	02/16/2011	05/02/2011	76	Paroled
Michael P.	07/30/2010	02/15/2011	201	Coalinga
Donald P.	08/17/2011	11/08/2011	84	Coalinga
Alvin Q.	11/07/2013	12/19/2013	43	Coalinga
Jesus R.	07/14/2010	05/13/2011	304	Cal. Inst. for Men
Paul R.	10/17/2008	04/25/2011	191	Coalinga
Simon S.	02/24/2011	06/06/2011	103	Coalinga

Average Number of Days in Custody Prior to Probable Cause Hearing = 120 days

## ATTACHMENT B

### DECLARATION OF JOHN INGRASSIA IN SUPPORT OF COUNTY OF SAN DIEGO'S COMMENTS IN RESPONSE TO REQUEST FOR ADDITIONAL BRIEFING AND EVIDENCE ON COSTS PERTAINING TO HOUSING POTENTIAL SEXUALLY VIOLENT PREDATORS

I, John Ingrassia, declare as follows:

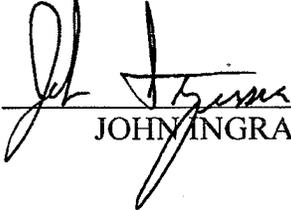
1. I make this declaration based on my own personal knowledge, except for matters set forth herein on information and belief, and as to those matters I believe them to be true, and if called upon to testify herein, I could and would competently testify to the following.
2. I am employed by the San Diego County Sheriff's Department. I have been employed by the San Diego County Sheriff as a public safety officer for twenty-four years. I have held the rank of Commander since April 2008. I am currently the Commander in charge of Area 2 for the Sheriff's Detention Services Bureau.
3. My employment responsibilities include management and supervision of four of the Department's seven detention facilities, as well as the Prisoner Transportation Detail, Jail Population Management Unit and Detentions Investigations Unit.
4. Our office is responsible for transporting and housing inmates who are the subject of civil proceedings to determine whether there is a serious and well-founded risk that the inmate will commit another sexually violent predatory offense unless he is treated in a confined setting in the custody of the Department of State Hospitals.
5. This includes the obligation to transport and house inmates for probable cause hearings prior to the actual trial on the merits of the case.
6. The inmates that are the subject of the SVP proceedings are housed by the California Department of Corrections and Rehabilitation at facilities throughout the state as far east as Calipatria and as far north as Coalinga.
7. When these inmates arrive in San Diego County for their SVP proceeding, they are generally brought to the San Diego Central Jail, processed and then transferred to and housed at the George Bailey Detention Facility in Otay Mesa.
8. The Sheriff is responsible for housing these inmates for the duration of their stay in San Diego County, which often lasts several months.
9. I am informed that Commission staff has requested 'additional briefing and evidence on whether activities and costs pertaining to housing potential SVPs pending or during a probable cause hearing, imposes a higher level of service than that required to house the potential SVP during trial and, if so, to specifically isolate those activities and costs that do not pertain to the eventual

conduct of an SVP trial.' This declaration is submitted in response to that request.

10. Attached to the declaration of Michael Ruiz as Exhibit 1, which is submitted herewith, is a representative sample of inmates that have had SVP Probable Cause hearings in San Diego Superior Court since January 1, 2011. The dates for the Probable Cause hearings were confirmed by the Public Defender's office and I believe that information to be accurate. As demonstrated on Exhibit 1, the average number of days in the custody of the San Diego County Sheriff prior to the commencement of the inmate's Probable Cause hearing is 120 days.
11. The cost to house an inmate, which includes, among other things, the cost to process and intake an inmate, provide medical exams, staffing, utilities, and food varies between an average cost of \$107.50 per day at the George Bailey Detention Facility to \$159.24 per day at the Central Jail. The State has previously reimbursed the Sheriff for the cost to house these inmates at the rate of \$71.87.
12. Assuming that each inmate is in our custody for on average 120 days prior to the Probable Cause hearing, the cost to house each inmate ranges from approximately \$12,900 to \$19,108.80. These housing costs are separate, apart, and in addition to the housing costs for each inmate prior to the actual trial on the merits of the petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25<sup>th</sup> day of April, 2014 at San Diego, California.

  
\_\_\_\_\_  
JOHN INGRASSIA

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

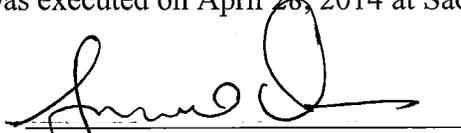
I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 28, 2014, I served the:

**County of San Diego Comments and County of Los Angeles Comments**  
*Sexually Violent Predators*, CSM-4509 (12-MR-01)  
Welfare and Institutions Code Sections 6602;  
Statutes 1995, Chapter 762; Statutes 1995, Chapter 763; Statutes 1996, Chapter 4  
California Department of Finance, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided 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 April 28, 2014 at Sacramento, California.

  
\_\_\_\_\_  
Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 4/17/14

**Claim Number:** CSM-4509 (12-MR-01)

**Matter:** Sexually Violent Predators

**Requester:** Department of Finance

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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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