

COMMISSION ON STATE MANDATES

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May 16, 2003

Mr. Leonard Kaye
SB 90 Coordinator
County of Los Angeles
500 West Temple Street, Room 603
Los Angeles, California 90012

And Affected Parties and State Agencies (See Enclosed Mailing List)

Re: **Proposed Statement of Decision and Hearing Date**
Crime Victim's Domestic Violence Incident Reports, CSM 99-TC-08
Los Angeles County, Claimant
Penal Code Section 13730 and Family Code Section 6228
Statutes of 1984, Chapter 1609; Statutes of 1995, Chapter 965; and
Statutes of 1999, Chapter 1022

Dear Mr. Kaye:

The Proposed Statement of Decision for this test claim is complete and is enclosed for your review.

Hearing

This Proposed Statement of Decision is set for hearing on Thursday, **May 29, 2003**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be placed on the Proposed Consent Calendar unless you let us know in advance if you or a representative of your agency will testify at the hearing, or if other witnesses will appear.

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 on the above, please contact Camille Shelton at (916) 323-3562.

Sincerely,


Paula Higashi
Executive Director

Enc. Proposed Statement of Decision/Documents submitted at April 24, 2003 Hearing

MAILED: Mail List FAXED: _____
DATE: 5/16/03 INITIAL: VS
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WORKING BINDER: _____

ITEM 6
PROPOSED STATEMENT OF DECISION
TEST CLAIM

Penal Code Section 13730,
As Added and Amended by Statutes 1984, Chapter 1609, and Statutes 1995, Chapter 965

Family Code Section 6228,
As Added by Statutes 1999, Chapter 1022

Crime Victims' Domestic Violence Incident Reports (99-TC-08)

Filed by County of Los Angeles, Claimant

Executive Summary

At the April 24, 2003 hearing, the Commission heard the test claim allegations and adopted the staff's recommendation by a 5-0 vote.¹ The sole issue before the Commission is whether the Proposed Statement of Decision accurately reflects the decision made by the Commission at the hearing.²

Background

This test claim is filed on two statutes: Penal Code section 13730, as added in 1984 and amended in 1995, and Family Code section 6228, as added in 1999. Penal Code section 13730 requires local law enforcement agencies to develop domestic violence incident reports as specified by the statute. As indicated in the attached Statement of Decision, the Commission has issued two prior decisions approving test claims on Penal Code section 13730, as added in 1984 and amended in 1995, and approved reimbursement for the writing of such reports.

Family Code section 6228 requires local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence upon request within a specified time period.

The Commission concluded that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandates a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code

¹ The pertinent portion of the transcript from the Commission hearing is attached.

² California Code of Regulations, title 2, section 1188.1, subdivision (g).

section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for five years. (Fam. Code, § 6228, subd. (e).)

The Commission further concluded that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.

The Proposed Statement of Decision is virtually the same as the staff analysis on the test claim. One paragraph was added, beginning on page 14, to reflect the discussion at the hearing regarding Penal Code section 13730, *as amended in 1993* (Stats. 1993, ch. 1230) and its relation to the request for reimbursement for the activity of preparing the domestic violence incident reports. The added paragraph states the following:

Moreover, preparing a domestic violence incident report does not constitute a new program or higher level of service because preparation of the report is required under prior law. Penal Code section 13730, *as amended in 1993* (Stats. 1993, ch. 1230), added the requirement that “[a]ll domestic violence-related calls for assistance *shall be supported with a written incident report*, as described in subdivision (c), identifying the domestic violence incident.” (Emphasis added.) The claimant did not include the 1993 amendment to Penal Code section 13730 in this test claim. In addition, the 1993 amendment to Penal Code section 13730 has not been included in the Legislature’s suspension of Penal Code section 13730, as originally added in 1984, since neither the Legislature, the Commission, nor the courts, have made the determination that the 1993 statute constitutes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution. Thus, the activity of preparing the domestic violence incident report is an activity currently required by prior law through the 1993 amendment to Penal Code section 13730.

In addition, footnote 5 on page 6 was amended to reflect the supplemental information provided to the Commission at the hearing regarding the suspension of Penal Code section 13730, as originally added in 1984. Footnote 5 now states the following:

Since the operative date of Family Code section 6228 (January 1, 2000), Penal Code section 13730, as originally added by Statutes 1984, chapter 1609, has been suspended by the Legislature pursuant to Government Code section 17581. The Budget Bills suspending Statutes 1984, chapter 1609, are as follows: Statutes 1999, chapter 50, Item 9210-295-0001, Schedule (8), Provision 2; Statutes 2000, chapter 52, Item 9210-295-0001, Schedule (8), Provision 3; Statutes 2001, chapter 106, Item 9210-295-0001, Schedule (8), Provision 3; and Statutes 2002, chapter 379, Item 9210-295,0001, Schedule (8), Provision 3.

The Governor’s Proposed Budget for fiscal year 2003-04 proposes to continue the suspension of the domestic violence incident report.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Statement of Decision, beginning on page five, which accurately reflects the Commission's decision at the April 24, 2003 Commission hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Section 13730, As Added and Amended by Statutes 1984, Chapter 1609, and Statutes 1995, Chapter 965; and

Family Code Section 6228, As Added by Statutes 1999, Chapter 1022,

Filed on May 15, 2000,

by County of Los Angeles, Claimant.

No. 99-TC-08

Crime Victims' Domestic Violence Incident Reports

STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Presented for adoption on May 29, 2003)

STATEMENT OF DECISION

On April 24, 2003, the Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing. Mr. Leonard Kaye and Sergeant Wayne Bilowit appeared for claimant, County of Los Angeles. Mr. Dirk L. Anderson and Ms. Susan Geanacou appeared on behalf of the Department of Finance.

At the hearing, testimony was given, the test claim was submitted, and the vote was taken.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis, which partially approves this test claim, by a 5-0 vote.

BACKGROUND

This test claim is filed on two statutes: Penal Code section 13730, as added in 1984 (Stats. 1984, ch. 1609) and amended in 1995 (Stats. 1995, ch. 965), and Family Code section 6228, as added in 1999 (Stats. 1999, ch. 1022).

In 1987, the Commission approved a test claim filed by the City of Madera on Penal Code section 13730, as added by Statutes 1984, chapter 1609, as a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution (*Domestic Violence Information*, CSM 4222). The parameters and guidelines for *Domestic Violence Information* authorized reimbursement for local law enforcement agencies for the "costs associated with the development of a Domestic Violence Incident Report form used to record and report domestic violence calls," and "for the writing of mandated reports which shall include domestic violence reports, incidents or crime reports directly related to the domestic violence incident."

Beginning in fiscal year 1992-93, the Legislature, pursuant to Government Code section 17581, suspended Penal Code section 13730, as added by Statutes 1984, chapter 1609.

With the suspension, the Legislature assigned a zero-dollar appropriation to the mandate and made the program optional.

In 1995, the Legislature amended Penal Code section 13730, subdivision (c). (Stats. 1995, ch. 965.) As amended, Penal Code section 13730, subdivision (c)(1)(2), required law enforcement agencies to include in the domestic violence incident report additional information relating to the use of alcohol or controlled substances by the abuser, and any prior domestic violence responses to the same address.

In February 1998, the Commission considered a test claim filed by the County of Los Angeles on the 1995 amendment to Penal Code section 13730 (*Domestic Violence Training and Incident Reporting*, CSM 96-362-01). The Commission concluded that the additional information on the domestic violence incident report was not mandated by the state because the suspension of the statute under Government Code section 17581 made the completion of the incident report itself optional, and the additional information under the test claim statute came into play only after a local agency elected to complete the incident report.

Based on the plain language of the suspension statute (Gov. Code, § 17581), the Commission determined, however, that during window periods when the state operates without a budget, the original suspension of the mandate would not be in effect. Thus, the Commission concluded that for the limited window periods when the state operates without a budget until the Budget Act is chaptered and makes the domestic violence incident reporting program optional under Government Code section 17581, the activities required by the 1995 amendment to Penal Code section 13730 were reimbursable under article XIII B, section 6.

In 1998, Government Code section 17581 was amended to close the gap and continue the suspension of programs during window periods when the state operates without a budget.³ In 2001, the California Supreme Court upheld Government Code section 17581 as constitutionally valid.⁴ The Domestic Violence Information and Incident Reporting programs remained suspended in the 2002 Budget Act.⁵

³ Government Code section 17581, subdivision (a), now states the following: "No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year *and the for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year* . . ." (Emphasis added.)

⁴ *Carmel Valley Fire Protection District v. State of California* (2001) 25 Cal.4th 287, 297.

⁵ Since the operative date of Family Code section 6228 (January 1, 2000), Penal Code section 13730, as originally added by Statutes 1984, chapter 1609, has been suspended by the Legislature pursuant to Government Code section 17581. The Budget Bills suspending Statutes 1984, chapter 1609, are as follows: Statutes 1999, chapter 50, Item 9210-295-0001, Schedule (8), Provision 2; Statutes 2000, chapter 52, Item 9210-295-0001, Schedule (8), Provision 3; Statutes 2001, chapter 106, Item

Test Claim Statutes

Penal Code section 13730, as added in 1984 and amended in 1995, requires local law enforcement agencies to develop and prepare domestic violence incident reports as specified by statute. Penal Code section 13730 states the following:

- (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons were involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.
- (b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.
- (c) Each law enforcement agency shall develop an incident report that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:
 - (1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.
 - (2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency has previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

Family Code section 6228 requires state and local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence upon request within a specified period of time. Family Code section 6228, as added in 1999, states the following:

- (a) State and local law enforcement agencies shall provide, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all

9210-295-0001, Schedule (8), Provision 3; and Statutes 2002, chapter 379, Item 9210-295,0001, Schedule (8), Provision 3.

The Governor's Proposed Budget for fiscal year 2003-04 proposes to continue the suspension of the domestic violence incident report.

domestic violence incident reports, or both, to a victim of domestic violence, upon request. For purposes of this section, "domestic violence" has the definition given in Section 6211.

- (b) A copy of a domestic violence incident report face sheet shall be made available during regular business hours to a victim of domestic violence no later than 48 hours after being requested by the victim, unless the state or local law enforcement agency informs the victim of the reasons why, for good cause, the domestic violence incident report face sheet is not available, in which case the domestic violence incident report face sheet shall be made available to the victim no later than five working days after the request is made.
- (c) A copy of the domestic violence incident report shall be made available during regular business hours to a victim of domestic violence no later than five working days after being requested by a victim, unless the state or local law enforcement agency informs the victim of the reasons why, for good cause, the domestic violence incident report is not available, in which case the domestic violence incident report shall be made available to the victim no later than 10 working days after the request is made.
- (d) Persons requesting copies under this section shall present state or local law enforcement with identification at the time a request is made.
- (e) This section shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incidence report.
- (f) This section shall be known, and may be cited, as the Access to Domestic Violence Reports Act of 1999.

According to the bill analysis prepared by the Assembly Judiciary Committee, section 6228 was added to the Family Code for the following reasons:

The author notes that victims of domestic violence do not have an expedited method of obtaining police reports under existing law. Currently, victims of domestic violence must write and request that copies of the reports be provided by mail. It often takes between two and three weeks to receive the reports. Such a delay can prejudice victims in their ability to present a case for a temporary restraining order under the Domestic Violence Prevention Act. This bill remedies that problem by requiring law enforcement agencies to provide a copy of the police report to the victim at the time the request is made if the victim personally appears.

The purpose of restraining and protective orders issued under the DVPA [Domestic Violence Prevention Act] is to prevent a recurrence of domestic violence and to ensure a period of separation of the persons involved in the violent situation. According to the author, in the absence of police reports, victims may have difficulty presenting the court with proof of a past act or acts of abuse and as a result may be denied a necessary restraining order which could serve to save a victim's life or prevent further abuse. By increasing the availability of police reports to

victims, this bill improves the likelihood that victims of domestic violence will have the required evidence to secure a needed protective order against an abuser.

In addition to the lack of immediate access to copies of police reports, the author points to the cost of obtaining such copies. For example, in Los Angeles County the fee is \$13 per report. These fees become burdensome for victims who need to chronicle several incidents of domestic violence. For some the expense may prove prohibitive.

Claimant's Position

The claimant contends that the test claim legislation imposes a reimbursable state-mandated program upon local law enforcement agencies to prepare domestic violence incident reports, store the reports for five years, and retrieve and copy the reports upon request of the domestic violence victim. The claimant contends that it takes 30 minutes to prepare each report, 10 minutes to store each report, and 15 minutes to retrieve and copy each report upon request by the victim. The claimant states that from January 1, 2000, until June 30, 2000, the County prepared and stored 4,740 reports and retrieved 948 reports for victims of domestic violence. The claimant estimates costs during this six-month time period in the amount of \$181,228.

Position of the Department of Finance

The Department of Finance filed comments on June 16, 2000, concluding that Family Code section 6228 results in costs mandated by the state. The Department further states that the nature and extent of the specific required activities can be addressed in the parameters and guidelines developed for the program.

COMMISSION FINDINGS

A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁶ In addition, the required activity or task must constitute a "new program" or create a "higher level of service" over the previously required level of service.⁷ The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁸ To determine if the program is new or imposes a higher level of service, the analysis must compare the test claim legislation with the legal requirements in effect

⁶ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

⁷ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

⁸ *Id.*

immediately before the enactment of the test claim legislation.⁹ Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹⁰

This test claim presents the following issues:

- Does the Commission have jurisdiction to retry the issue whether Penal Code section 13730 constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports?
- Is Family Code section 6228 subject to article XIII B, section 6 of the California Constitution?
- Does Family Code section 6228 mandate a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?
- Does Family Code section 6228 impose “costs mandated by the state” within the meaning of Government Code sections 17514?

These issues are addressed below.

I. Does the Commission have jurisdiction to retry the issue whether Penal Code section 13730 constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports?

The test claim filed by the claimant includes Penal Code section 13730, as added in 1984 and amended in 1995. The claimant acknowledges the Commission’s prior final decisions on Penal Code section 13730, and acknowledges the Legislature’s suspension of the program. Nevertheless, the claimant argues that Penal Code section 13730, as well as Family Code section 6228, constitute a reimbursable state-mandated program for the activity of preparing domestic violence incident reports. In comments to the draft staff analysis, the claimant argues as follows:

Penal Code section 13730 mandates that “domestic violence incident reports” be prepared. This mandate was found to be reimbursable by the Commission. [Footnote omitted.] Therefore, this reporting duty was new, not required under prior incident reporting law.

Now, “domestic violence incident reports” must be prepared—and provided to domestic violence victims upon their request, without exception, in accordance with Family Code section 6228, and in accordance with Penal Code section 13730, as added by Chapter 1609, Statutes of 1984 and amended by Chapter 965, Statutes of 1995 . . .¹¹

⁹ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835.

¹⁰ Government Code section 17514; *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1284.

¹¹ Claimant’s comments to draft staff analysis, pages 2-3.

The claimant further contends that “the duty to prepare and provide domestic violence incident reports to domestic violence victims was not made ‘optional’ under Government Code section 17581.” (Emphasis in original)¹²

For the reasons provided below, the Commission finds that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.

It is a well-settled principle of law that an administrative agency does not have jurisdiction to retry a question that has become final. If a prior decision is retried by the agency, that decision is void. In *City and County of San Francisco v. Ang*, the court held that whenever a quasi-judicial agency is vested with the authority to decide a question, such decision, when made, is conclusive of the issues involved in the decision.¹³

These principles are consistent with the purpose behind the statutory scheme and procedures established by the Legislature in Government Code section 17500 and following, which implement article XIII B, section 6 of the California Constitution. As recognized by the California Supreme Court, Government Code section 17500 and following were established for the “express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created.”¹⁴

Government Code section 17521 defines a test claim as follows: “‘Test claim’ means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.” Government Code section 17553, subdivision (b), requires the Commission to adopt procedures for accepting more than one claim on the same statute or executive order if the subsequent test claim is filed within 90 days of the first claim and consolidated with the first claim. Section 1183, subdivision (c), of the Commission’s regulations allow the Commission to consider multiple test claims on the same statute or executive order only if the issues presented are different or the subsequent test claim is filed by a different type of local governmental entity.

Here, the issue presented in this test claim is the same as the issue presented in the prior test claim; i.e., whether preparing a domestic violence incident report is a reimbursable state-mandated activity under article XIII B, section 6 of the California Constitution. The Commission approved CSM 4222, *Domestic Violence Information*, and has authorized

¹² *Id.* at pages 4-6.

¹³ *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 697; See also, *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407, where the court held that the civil service commission had no jurisdiction to retry a question and make a different finding at a later time; and *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143, where the court held that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once the decision becomes final.

¹⁴ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 333.

reimbursement in the parameters and guidelines for "writing" the domestic violence incident reports as an activity reasonably necessary to comply with the mandated program.¹⁵ Moreover, this test claim was filed more than 90 days after the original test claims on Penal Code section 13730.

Accordingly, the Commission finds that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.

The remaining analysis addresses the claimant's request for reimbursement for compliance with Family Code section 6228.

II. Is Family Code Section 6228 Subject to Article XIII B, Section 6 of the California Constitution?

In order for Family Code section 6228 to be subject to article XIII B, section 6 of the California Constitution, the statute must constitute a "program." The California Supreme Court, in the case of *County of Los Angeles v. State of California*¹⁶, defined the word "program" within the meaning of article XIII B, section 6 as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger the applicability of article XIII B, section 6.¹⁷

The plain language of Family Code section 6228 requires local law enforcement agencies to provide, without charging a fee, one copy of the domestic violence incident report and/or face sheet to victims of domestic violence within a specified time period. As indicated above, the purpose of the legislation is to assist victims in supporting a case for a temporary restraining order against the accused.

The Commission finds that Family Code section 6228 qualifies as a program under article XIII B, section 6. As determined by the Second District Court of Appeal, police protection is a peculiarly governmental function.¹⁸ The requirement to provide a copy of the incident report to the victim supports effective police protection in the area of domestic violence.¹⁹ Moreover, the test claim statute imposes unique requirements on local law enforcement agencies that do not apply generally to all residents and entities in the state.

¹⁵ California Code of Regulations, title 2, section 1183.1, subdivision (a)(1)(4).

¹⁶ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

¹⁷ *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537.

¹⁸ *Id.*

¹⁹ *Ante*, pp. 6-7 (bill analysis of Assembly Judiciary Committee, dated September 10, 1999).

Accordingly, the Commission finds that Family Code section 6228 is subject to article XIII B, section 6 of the California Constitution.

III. Does Family Code Section 6228 Mandate a New Program or Higher Level of Service on Local Law Enforcement Agencies?

The claimant alleges that Family Code section 6228 mandates a new program or higher level of service within the meaning of article XIII B, section 6, for the activities of preparing, storing, retrieving, and copying domestic violence incident reports upon request of the victim.

Family Code Section 6228 Does Not Mandate a New Program or Higher Level of Service on Local Law Enforcement Agencies to Prepare a Report or a Face Sheet

First, the plain language of Family Code section 6228 does not mandate or require local law enforcement agencies to prepare a domestic violence incident report or a face sheet. Rather, the express language of the statute states that local law enforcement agencies “shall *provide*, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, upon request.” (Emphasis added.)

The claimant acknowledges that Family Code section 6228 does not expressly require the local agency to prepare a report. The claimant argues, however, that preparation of a report under Family Code section 6228 is an “implied mandate” because, otherwise, victims would be requesting non-existent reports.²⁰ The Commission disagrees.

Pursuant to the rules of statutory construction, courts and administrative agencies are required, when the statutory language is plain, to enforce the statute according to its terms. The California Supreme Court explained that:

In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. We begin by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. [Citations omitted]²¹

In this regard, courts and administrative agencies may not disregard or enlarge the plain provisions of a statute, nor may they go beyond the meaning of the words used when the words are clear and unambiguous. Thus, courts and administrative agencies are prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.²² This prohibition is based on the fact that the California Constitution vests the Legislature, and not the Commission, with policymaking authority. As a result, the Commission has been instructed by the courts to

²⁰ Claimant’s test claim filing, page 10; Claimant’s comments on draft staff analysis, pages 1, 7-10.

²¹ *Estate of Griswold* (2001) 25 Cal.4th 904, 910-911.

²² *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757; *In re Rudy L.* (1994) 29 Cal.App.4th 1007, 1011.

construe the meaning and effect of statutes analyzed under article XIII B, section 6 strictly:

A strict construction of section 6 is in keeping with the rules of constitutional interpretation, which require that constitutional limitations and restrictions on legislative power "are to be construed strictly, and are not to be extended to include matters not covered by the language used." ... "Under our form of government, policymaking authority is vested in the Legislature and neither arguments as to the wisdom of an enactment nor questions as to the motivation of the Legislature can serve to invalidate particular legislation." [Citations omitted.] Under these principles, there is no basis for applying section 6 as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding policies."²³

Legislative history of Family Code section 6228 further supports the conclusion that the Legislature, through the test claim statute, did not require local agencies to prepare an incident report. Rather, legislative history indicates that local agencies were required under prior law to prepare an incident report. The analyses of the bill that enacted Family Code section 6228 all state that under prior law, a victim of domestic violence could request in writing that a copy of the report be provided by mail.²⁴ The analysis prepared by the Assembly Appropriations Committee dated September 1, 1999, further states that "[a]ccording to the California State Sheriff's Association, reports are currently available for distribution within 3-12 working days," and that "agencies currently charge a fee of \$5-\$15 per report."

Moreover, preparing a domestic violence incident report does not constitute a new program or higher level of service because preparation of the report is required under prior law. Penal Code section 13730, *as amended in 1993* (Stats. 1993, ch. 1230), added the requirement that "[a]ll domestic violence-related calls for assistance *shall be supported with a written incident report*, as described in subdivision (c), identifying the domestic violence incident." (Emphasis added.) The claimant did not include the 1993 amendment to Penal Code section 13730 in this test claim. In addition, the 1993 amendment to Penal Code section 13730 has not been included in the Legislature's suspension of Penal Code section 13730, as originally added in 1984, since neither the Legislature, the Commission, nor the courts, have made the determination that the 1993 statute constitutes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution.²⁵ Thus, the activity of preparing the domestic violence

²³ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817.

²⁴ Bill Analysis of Assembly Judiciary Committee, dated September 10, 1999; Senate Floor Analysis dated September 8, 1999; Bill Analysis by the Assembly Appropriations Committee, dated September 1, 1999.

²⁵ Government Code section 17581, subdivision (a)(1), requires that the statute or executive order proposed for suspension must first be "determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring

incident report is an activity currently required by prior law through the 1993 amendment to Penal Code section 13730.

Accordingly, the Commission finds that Family Code section 6228 does not mandate a new program or higher level of service on local agencies to prepare a domestic violence incident report or a face sheet and, thus, reimbursement is not required for this activity under article XIII B, section 6 of the California Constitution.

Family Code Section 6228 Does Not Impose a New Program or Higher Level of Service for the Activities of Providing, Retrieving, and Copying Information Related to a Domestic Violence Incident.

Family Code section 6228 expressly requires local law enforcement agencies to perform the following activities:

- Provide one copy of all domestic violence incident report face sheets to the victim, free of charge, within 48 hours after the request is made. If, however, the law enforcement agency informs the victim of the reasons why, for good cause, the face sheet is not available within that time frame, the law enforcement agency shall make the face sheet available to the victim no later than five working days after the request is made.
- Provide one copy of all domestic violence incident reports to the victim, free of charge, within five working days after the request is made. If, however, the law enforcement agency informs the victim of the reasons why, for good cause, the incident report is not available within that time frame, the law enforcement agency shall make the incident report available to the victim no later than ten working days after the request is made.
- The requirements in section 6228 shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incident report.

The Commission finds that the claimed activities of “retrieving” and “copying” information related to a domestic violence incident do not constitute a new program or higher level of service. Since 1981, Government Code section 6254, subdivision (f), of the California Public Records Act has required local law enforcement agencies to disclose and provide records of incidents reported to and responded by law enforcement agencies to the victims of an incident.²⁶ Government Code section 6254, subdivision (f), states in relevant part the following:

[S]tate and local law enforcement agencies shall disclose the names and addresses of the persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the

reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.”

²⁶ Government Code section 6254 was added by Statutes 1981, chapter 684. Section 6254 was derived from former section 6254, which was originally added in 1968 (Stats. 1968, ch. 1473).

date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident

Except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation, law enforcement agencies are required to disclose and provide to the victim the following information:

- The full name and occupation of every individual arrested by the agency; the individual's physical description; the time and date of arrest; the factual circumstances surrounding the arrest; the time and manner of release or the location where the individual is currently being held; and all charges the individual is being held upon;²⁷ and
- The time, substance, and location of all complaints or requests for assistance received by the agency; the time and nature of the response; the time, date, and location of the occurrence; the time and date of the report; the name and age of the victim; the factual circumstances surrounding the crime or incident; and a general description of any injuries, property, or weapons involved.²⁸

Although the general public is denied access to the information listed above, parties involved in an incident who have a proper interest in the subject matter are entitled to such records.²⁹ The disclosure of a domestic violence incident report under Government Code section 6254, subdivision (f), of the Public Records Act is proper.³⁰

Furthermore, the information required to be disclosed to victims under Government Code section 6254, subdivision (f), satisfies the purpose of the test claim statute. As indicated in the legislative history, the purpose of the test claim statute is to assist victims of domestic violence in obtaining restraining and protective orders under the Domestic Violence Prevention Act. Pursuant to Family Code section 6300 of the Domestic Violence Prevention Act, a protective order may be issued to restrain any person for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved, if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse. The Commission finds that the disclosure of information describing the factual circumstances surrounding the incident pursuant to Government Code section 6254, subdivision (f), is evidence that can support a victim's request for a protective order under Family Code section 6300.

Finally, the Commission acknowledges that the requirements under the test claim statute and the requirements under the Public Records Act are different in two respects. First, unlike the test claim statute, the Public Records Act does not specifically mandate when law enforcement agencies are required to disclose the information to victims. Rather,

²⁷ Government Code section 6254, subdivision (f)(1).

²⁸ Government Code section 6254, subdivision (f)(2).

²⁹ *Vallejos v. California Highway Patrol* (1979) 89 Cal.App.3d 781, 786.

³⁰ *Baugh v. CBS, Inc.* (1993) 828 F.Supp. 745, 755.

Government Code section 6253, subdivision (b), requires the local agency to make the records “promptly available.” Under the test claim statute, law enforcement agencies are required to provide the domestic violence incident report face sheets within 48 hours or, for good cause, no later than five working days from the date the request was made. The test claim statute further requires law enforcement agencies to provide the domestic violence incident report within five working days or, for good cause, no later than ten working days from the date the request was made. While the time requirement imposed by Family Code section 6228 is specific, the activities of providing, retrieving, and copying information related to a domestic violence incident are not new and, thus, do not constitute a new program or higher level of service.

Second, unlike the test claim statute, the Public Records Act authorizes local agencies to charge a fee “covering the direct costs of duplication of the documentation, or a statutory fee, if applicable.”³¹ The test claim statute, on the other hand, requires local law enforcement agencies to provide the information to victims free of charge.

Although the test claim statute may result in additional costs to local agencies because of the exclusion of the fee authority, those costs are not reimbursable under article XIII B, section 6. The California Supreme Court has ruled that evidence of additional costs alone does not automatically equate to a reimbursable state-mandated program under section 6. Rather, the additional costs must result from a new program or higher level of service. In *County of Los Angeles v. State of California*, the Supreme Court stated:

If the Legislature had intended to continue to equate “increased level of service” with “additional costs,” then the provision would be circular: “costs mandated by the state” are defined as “increased costs” due to an “increased level of service,” which, in turn, would be defined as “additional costs.” We decline to accept such an interpretation. Under the repealed provision, “additional costs” may have been deemed tantamount to an “increased level of service,” but not under the post-1975 statutory scheme [after article XIII B, section 6 was adopted].³²

The Supreme Court affirmed this principle in *Lucia Mar Unified School District v. Honig*:

We recognize that, as is made indisputably clear from the language of the constitutional provision, local entities are not entitled to reimbursement for all increased costs mandated by state law, but only those costs resulting from a new program or an increased level of service imposed upon them by the state.³³

As indicated above, the state has not mandated a new program or higher level of service to provide, retrieve, and copy information relating to a domestic violence incident to the victim. Moreover, the First District Court of Appeal, in the *County of Sonoma* case,

³¹ Government Code section 6253, subdivision (b).

³² *County of Los Angeles, supra*, 43 Cal.3d at pages 55-56.

³³ *Lucia Mar Unified School District v. Honig, supra*, 44 Cal.3d at page 835; see also, *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

concluded that article XIII B, section 6 does not extend "to include concepts such as lost revenue."^{34, 35}

Accordingly, the Commission finds that the activities of providing, retrieving, and copying information related to a domestic violence incident do not constitute a new program or higher level of service.

Family Code Section 6228 Does Not Impose a New Program or Higher Level of Service for the Activity of Informing the Victim of the Reasons Why, For Good Cause, the Incident Report and Face Sheet are not Available within the Statutory Time Limits.

Family Code section 6228, subdivision (b), states that the domestic violence incident report face sheet shall be made available to a victim no later than 48 hours after the request, unless the law enforcement agency informs the victim of the reasons why, for good cause, the face sheet is not available within 48 hours. Under these circumstances, the law enforcement agency is required to provide the face sheet to the victim within five working days after the request is made.

Family Code section 6228, subdivision (c), contains a similar provision. Subdivision (c) states that the domestic violence incident report shall be made available to a victim no later than five working days after the request, unless the law enforcement agency informs the victim of the reasons why, for good cause, the incident report is not available within five working days. Under these circumstances, the law enforcement agency is required to provide the incident report to the victim within ten working days after the request is made.

The Commission finds that the activity of informing the victim of the reasons why, for good cause, the incident report and the face sheet are not available within the statutory time limits does not constitute a new program or higher level of service.

Since 1981, Government Code section 6253 of the Public Records Act has required law enforcement agencies to perform the same activity. Subdivision (c) of Government Code section 6253 states that each agency is required to determine whether a request for public records seeks copies of disclosable public records in the possession of the agency and

³⁴ *County of Sonoma, supra*, 84 Cal.App.4th at page 1285.

³⁵ In comments to the draft staff analysis, the claimant cites analyses prepared by the Department of Finance, Legislative Counsel, and the Assembly Appropriations Committee on the test claim statute that indicate the lost revenues may be reimbursable to support its contention that Family Code section 6228 imposes a reimbursable state-mandated program (pp. 11-14).

But, these analyses are not determinative of the mandate issue. The statutory scheme in Government Code section 17500 et seq. contemplates that the Commission, as a quasi-judicial body, has the sole and exclusive authority to adjudicate whether a state mandate exists. (*City of San Jose, supra*, 45 Cal.App.4th 1802, 1817-1818, quoting *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, and *Kinlaw v. State of California, supra*, 54 Cal.3d at p. 333.) Moreover, as indicated in the analysis, the conclusion that the activities of providing, retrieving, and copying do not constitute a new program or higher level of service is supported by case law.

notify the person making the request of the determination and the reasons of the determination within ten days of the request. Government Code section 6253, subdivision (c), further provides that the time limit may be extended if the agency notifies the person making the request, by written notice, of the reasons for the extension.³⁶

Although the time limits defined in Government Code section 6253 and Family Code section 6228 are different, the activity of informing the victim of the reasons why, for good cause, the incident report and face sheet are not available within the statutory time limits is not new and, thus, does not constitute a new program or higher level of service.

Storing the Domestic Violence Incident Report and Face Sheet for Five Years Constitutes a New Program or Higher Level of Service.

Family Code section 6228, subdivision (e), states that the requirements in section 6228 shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incident report. The claimant contends that subdivision (e) imposes a new program or higher level of service on local law enforcement agencies to store the domestic violence incident report for five years. The Commission agrees.

Under prior law, local law enforcement agencies are required to provide daily reports of misdemeanor and felony offenses, and a monthly report on domestic violence calls, to the Attorney General and the Department of Justice.³⁷ But, the state has not previously mandated any record retention requirements on local agencies for information provided to victims of domestic violence. Record retention policies were left to the discretion of the local agency.

Accordingly, the Commission finds that storing the domestic violence incident report and face sheet for five years constitutes a new program or higher level of service.

Thus, the Commission must continue its inquiry to determine if storing the domestic violence incident report results in increased costs mandated by the state.

IV. Does Family Code Section 6228 Impose Costs Mandated by the State Within the Meaning of Government Code Section 17514?

Government Code section 17514 defines "costs mandated by the state" as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service. The claimant states that it incurred \$24,856 to store domestic violence incident reports from January 1, 2000, to June 30, 2000³⁸ and that none of the exceptions to finding a reimbursable state-mandated program under Government Code section 17556 apply here.

³⁶ This activity derives from Government Code section 6256.1, which was added by Statutes 1981, chapter 968. In 1998, section 6256.1 was repealed and renumbered section 6253.

³⁷ Penal Code section 11107 (added by Stats. 1953, ch. 1385); Penal Code section 13730 (added by Stats. 1984, ch. 1609). As indicated above, Penal Code section 13730 has been suspended by the Legislature.

³⁸ Schedule 1 attached to Test Claim Filing.

The Commission finds that the requirement to store domestic violence incident reports pursuant to Family Code section 6228, subdivision (e), results in costs mandated by the state under Government Code section 17514, and that none of the exceptions under Government Code section 17556 apply to this activity.

CONCLUSION

The Commission concludes that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandates a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for five years. (Fam. Code, § 6228, subd. (e).)

The Commission further concludes that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.

Hearing Date: April 24, 2003
J:/mandates/99-TC-08/Suppinfo

ITEM 5

**TEST CLAIM
Supplemental Information**

Penal Code Section 13730,
As Added and Amended by Statutes 1984, Chapter 1609, and Statutes 1995, Chapter 965

Family Code Section 6228,
As Added by Statutes 1999, Chapter 1022

Crime Victims' Domestic Violence Incident Reports (99-TC-08)

Filed by County of Los Angeles, Claimant

This is to further clarify page 6, footnote 5 of the staff analysis.

Since the operative date of Family Code section 6228 (January 1, 2000), Penal Code section 13730, as originally added by Statutes 1984, chapter 1609, has been suspended by the Legislature pursuant to Government Code section 17581. The Budget Bills suspending Statutes 1984, chapter 1609, are listed below:

- Statutes 1999, chapter 50, Item 9210-295-0001, Schedule (8), Provision 2.
- Statutes 2000, chapter 52, Item 9210-295-0001, Schedule (8), Provision 3.
- Statutes 2001, chapter 106, Item 9210-295-0001, Schedule (8), Provision 3.
- Statutes 2002, chapter 379, Item 9210-295,0001, Schedule (8), Provision 3.

Senate Bill No. 160

CHAPTER 50

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 29, 1999. Filed with
Secretary of State June 29, 1999.]

I object to the following appropriations contained in Senate Bill 160.

Item 0250-001-0001—For support of Judiciary. I reduce this item from \$239,105,000 to \$239,104,000 by reducing:

(c) 30-Judicial Council from \$58,996,000 to \$58,995,000, and by deleting Provision 6.

I am deleting Provision 6 which would require the Judicial Council to develop and support a strategic committee on drug court strategy in the Judicial Council's drug court program and the Department of Alcohol and Drug Programs (DADP) Partnership Program. The DADP Partnership Program already has an existing committee assigned to determining administration of the Partnership Program, and the Judicial Council administers the drug court program. Therefore, this language is unnecessary because it would create duplicative activities that can best be handled by existing resources and their mutual coordination.

I am reducing \$1,000 from this item to reflect savings that will be achieved based on vetoing Provision 6 of this Item.

Item 0250-101-0001—For local assistance, Judiciary. I reduce this item from \$11,875,000 to \$11,775,000 by reducing the following:

(b) 30.20-California Drug Court Project from \$1,958,000 to \$1,858,000.

I am deleting the \$100,000 legislative augmentation which would have supported establishment of a drug court program in the City of Fontana. This proposal would have created a local exception to the statewide application process to the Department of Alcohol and Drug Programs' Partnership Program and the Judicial Council's drug court program. Such an exception is not conducive to the already existing support program and evaluation system that is in place. However, if the County of San Bernardino wishes to tailor its own drug court program for the City of Fontana, the authority to do so exists pursuant to Chapter 1132, Statutes of 1996.

I am sustaining the \$10,000,000 legislative augmentation to this item for the Equal Access Fund which will provide legal services for indigents in civil matters; however, I am sustaining this augmentation on a one-time basis.

Item 0450-101-0932—For local assistance, State Trial Court Funding. I reduce this item from \$1,776,178,000 to \$1,771,678,000 by reducing:

(d) 45-Court Interpreters from \$51,619,000 to \$47,119,000.

I am reducing the \$7,000,000 legislative augmentation, which would have increased trial court interpreter compensation from the current level of \$200 per day to \$250 per day, by \$4,500,000 and sustaining \$2,500,000 of the augmentation. This will provide sufficient funding to allow the Judicial Council to ensure certified and registered interpreters are available for trial court criminal proceedings only to avoid criminal trials from being dismissed or re-tried due to lack of available certified interpreters.

Item 0450-111-0001—For transfer by the Controller to the Trial Court Trust Fund. I reduce this item from \$890,370,000 to \$885,870,000.

I am reducing this item to conform to the actions I have taken in Item 0450-101-0932.

Item	Amount
Schedule:	
(1) Burbank-Glendale-Pasadena Airport Flight Path: Residential Acoustic Treatment Program	400,000
(2) Hawaiian Gardens RDA and Chamber of Commerce: Computer Drop-In Center	200,000
9210-117-0001—For local assistance; Local Government Financing, Local Services	620,000
Schedule:	
(1) Imperial County: Purchase of two ambulances	120,000
(2) Ventura County: Assist in the funding of the construction of two job training centers at community colleges	500,000
9210-118-0001—For local assistance, Local Government Financing	150,000,000
For allocation by the Controller to local jurisdictions pursuant to a statute enacted during the 1999–2000 Regular Session. Fifty percent of this appropriation shall be allocated to cities, counties, and city and counties on a per capita basis, and fifty percent of this appropriation shall be allocated to cities, counties, city and counties, and special districts pursuant to a statute which provides one-time Educational Revenue Augmentation Fund relief.	
9210-119-0001—For local assistance, Local Government Financing, LAFCO Study	1,800,000
Provisions:	
1. The funds appropriated in this item are for allocation by the Controller to the County of Los Angeles Local Agency Formation Commission for the purposes of conducting a succession study for the San Fernando Valley.	
9210-295-0001—For local assistance, Local Government Financing, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, State Controller	6,001,000
Schedule:	
(1) 98.01.048.675-Test Claims and Reimbursement Claims (Ch. 486, Stats. 1975).....	2,955,000

Item	Amount
(2) 98.01.064.186-Open Meetings Act Notices (Ch. 641, Stats. 1986)	2,896,000
(3) 98.01.084.578-Filipino Employee Surveys (Ch. 845, Stats. 1978)	0
(4) 98.01.088.981-Lis Pendens (Ch. 889, Stats. 1981)	0
(5) 98.01.098.084-Proration of Fines and Court Audits (Ch. 980, Stats. 1984)	0
(6) 98.01.099.991-Rape Victim Counseling Ctr. Notices (Ch. 999, Stats. 1991)	150,000
(7) 98.01.128.180-Involuntary Lien Notices (Ch. 1281, Stats. 1980)	0
(8) 98.01.160.984-Domestic Violence Information (Ch. 1609, Stats. 1984)	0
(9) 98.01.133.487-CPR Pocket Masks (Ch. 1334, Stats. 1987)	0

Provisions:

1. Except as provided in Provision 2 below, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 1999-00 fiscal year:
 - (a) Filipino Employee Surveys (Ch. 845, Stats. 1978)
 - (b) Lis Pendens (Ch. 889, Stats. 1981)
 - (c) Proration of Fines and Court Audits (Ch. 980, Stats. 1984)

Assembly Bill No. 1740

CHAPTER 52

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2000. Filed with
Secretary of State June 30, 2000.]

I object to the following appropriations contained in Assembly Bill 1740.

Item 0450-101-0932—For local assistance, State Trial Court Funding, I am deleting Provisions 6 and 9.

I am deleting Provision 6, which would require that any funds for salary increases for trial court judicial officers only be distributed to those trial courts that are unified to the fullest extent of the law.

I am also deleting Provision 9, which would require that funding for new trial court judicial officers shall be provided to those courts that are unified to the fullest extent of the law.

The 56th and final eligible county has recently unified, and this language is no longer necessary.

Item 0505-001-0001—For support of Department of Information Technology, I delete Provision 2.

I am deleting Provision 2 which would require \$500,000 of the funds appropriated in this item to be used to conduct a study that will research, analyze, and report on the lack of access to advanced technologies among low-income and minority communities, otherwise known as the "digital divide". While a study of this issue may be meritorious, I am deleting this language because when it was added, \$500,000 was available for this purpose. However, this item no longer contains resources for this study. Additionally, several national studies have been conducted on this issue.

Item 0505-101-0001—For local assistance, Department of Information Technology, I reduce this item from \$190,000 to \$150,000 by deleting:

(a) Sacramento Police Department—Racial Profiling Technology (\$40,000)

Consistent with my action in Item 2720-101-0001, which provides \$5,000,000 for grants to local law enforcement agencies that collect racial profiling data, I am deleting the \$40,000 legislative augmentation to the Sacramento Police Department for Racial Profiling Technology. Since it is my intention that the grant funds be used to offset a portion of local agency costs to report data to the Highway Patrol, the additional funding provided in this item is unnecessary.

Item 0530-001-0001—For support of Secretary for California Health and Human Services Agency, I reduce this item from \$2,274,000 to \$1,874,000 by reducing:

(a) 10-Secretary for California Health and Human Services Agency from \$3,272,000 to \$2,872,000,

and by revising Provision 1.

I am deleting \$400,000 and 0.9 personnel years of the \$600,000 and 0.9 personnel years legislative augmentation to implement Chapter 990, Statutes of 1999 (SB 480) and conduct a study regarding universal health care coverage options. While these resources were added for the purpose of conducting an additional study, Chapter 990 does not require such a study. Instead, Chapter 990 requires the Agency to examine and use the results of an existing University of California study, meet with interested parties, and report back to the Legislature on options regarding universal health care coverage. Given that Chapter 990 contained no appropriation and requires no additional study, \$200,000 is sufficient funding for the Agency to complete the required tasks.

Item	Amount
time grants to local law enforcement agencies for purchase of high-technology equipment.	
2. Of the amount appropriated in this item, the State Controller shall allocate a minimum grant of \$100,000 to each city police chief, county sheriff, and to the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, and the Kensington Police Protection and Community Services District within Contra Costa County.	
3. The balance of any remaining funds shall be allocated to county sheriffs and city police chiefs in accordance with the proportionate share of the state's total population that resides in each county, city, and city and county, as determined on the basis of the most recent January population estimate developed by the Department of Finance.	
9210-110-0001—For local assistance, Local Government Financing	147,000
Provisions:	
1. The funds appropriated in this item are for allocation by the Controller, by October 1, 2000, to counties that do not contain incorporated cities. The allocation to the affected counties shall be made in proportion to the population of those counties as of January 1, 2000.	
9210-295-0001—For local assistance, Local Government Financing, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	6,072,000
Schedule:	
(1) 98.01.048.675-Test Claims and Reimbursement Claims (Ch. 486, Stats. 1975).....	3,023,000
(2) 98.01.064.186-Open Meetings Act Notices (Ch. 641, Stats. 1986).....	2,896,000
(3) 98.01.084.578-Filipino Employee Surveys (Ch. 845, Stats. 1978)	0
(4) 98.01.088.981-Lis Pendens (Ch. 889, Stats. 1981).....	0

Item	Amount
(5) 98.01.098.084-Proration of Fines and Court Audits (Ch. 980, Stats. 1984).....	0
(6) 98.01.099.991-Rape Victim Counseling Ctr. Notices (Ch. 999, Stats. 1991).....	153,000
(7) 98.01.128.180-Involuntary Lien Notices (Ch. 1281, Stats. 1980).....	0
(8) 98.01.160.984-Domestic Violence Information (Ch. 1609, Stats. 1984).....	0
(9) 98.01.133.487-CPR Pocket Masks (Ch. 1334, Stats. 1987).....	0

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are

Senate Bill No. 739

CHAPTER 106

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 2001. Filed with
Secretary of State July 26, 2001.]

I object to the following appropriations contained in Senate Bill 739.

Item 0160-001-0001—For support of Legislative Counsel Bureau. I revise this item by deleting Provision 1.

I am deleting Provision 1 of this item, which would authorize the continuance of a salary differential approved by the Department of Personnel Administration (DPA) in 1998, in spite of its termination for all other State departments on July 1, 2001. Though I am aware that this language would address a salary compaction problem between supervisory and staff attorney positions at the Legislative Counsel Bureau, it would be inappropriate to authorize the continuation of this program for one department to the exclusion of others. I am directing the DPA to work with the Legislative Counsel Bureau on identifying administrative solutions to this problem.

Item 0250-001-0001—For support of Judiciary. I reduce this item from \$282,689,000 to \$282,394,000 by reducing:

- (2) 20-Courts of Appeal from \$166,633,000 to \$166,588,000, and
- (3) 30-Judicial Council from \$74,126,000 to \$73,876,000.

I am deleting the legislative augmentation of \$45,000 for a half-time Legal Editorial Assistant to post unpublished legal opinions of the Courts of Appeal on the California Courts Website. It is not clear that this is a priority of the Judiciary, and the need for funds to provide this service has not been demonstrated.

I am reducing the funding for administrative support of the Equal Access Fund by \$250,000 to conform to the action taken in Item 0250-101-0001.

Item 0250-101-0001—For local assistance, Judiciary. I reduce this item from \$18,482,000 to \$13,707,000 by reducing:

- (9) 30.90-Equal Access Fund from \$14,250,000 to \$9,500,000, and
- (10.5) 97.20.004-Local Projects from \$75,000 to \$50,000 by reducing the following subschedule:
 - (a) County of San Joaquin: Child Advocacy Center and Visitation Center at Mary Graham Children's Shelter from (\$75,000) to (\$50,000).

I am reducing the local assistance funding for the Equal Access Fund by \$4,750,000. California is heading into a difficult year with its softening economy and substantial revenue decreases. Consequently, the General Fund expenditures in this Budget are down 1.7 percent over the prior year. I am open to considering funding for this worthy program in the future when the economy improves.

I am reducing the legislative augmentation to establish a new facility for the Child Advocacy Center and Visitation Center at Mary Graham Children's Shelter by \$25,000. This action is essential due to fiscal constraints and limited resources in the General Fund. However, I am sustaining \$50,000 of this augmentation on a one-time basis.

Item 0450-101-0932—For local assistance, State Trial Court Funding. I reduce this item from \$2,082,060,000 to \$2,081,310,000 by reducing:

- (1) 10-Support for operation of the Trial Courts from \$1,773,533,000 to \$1,772,783,000.

I am deleting the \$750,000 legislative augmentation to establish a truancy court pilot project in Los Angeles County. Actions related to truancy, family issues, and juvenile

Item	Amount
(96) Rancho Cordova Community & Economic Devel- opment Corpora- tion: Rancho Cor- dova Incorporation	(50,000)
(97) Castaic Area Town Council: Incorpo- ration Study for the Town of Castaic ...	(50,000)
Provisions:	
1. The Controller may not allocate any funds pro- vided in this item until the Director of Parks and Recreation does the following: (a) notifies the Controller that he or she has determined that the allocation is consistent with the provisions of state law, and (b) provides the Controller with the name and address of the recipient agency.	
9210-108-0001—For local assistance, local government financing, law enforcement grants	10,000,000
Provisions:	
1. The funds appropriated in this item are subject to Provisions 1 to 6, inclusive, of Item 9210-106- 0001.	
9210-110-0001—For local assistance, Local Government Financing	147,000
Provisions:	
1. The funds appropriated in this item are for allo- cation by the Controller, by October 1, 2001, to counties that do not contain incorporated cities. The allocation to the affected counties shall be made in proportion to the population of those counties as of January 1, 2001.	
9210-295-0001—For local assistance, Local Government Financing, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Gov- ernment Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disburse- ment by the State Controller	6,266,304
Schedule:	
(1) 98.01.048.675-Test Claims and Re- imbursement Claims (Ch. 486, Stats. 1975)	3,119,736
(2) 98.01.064.186-Open Meetings Act Notices (Ch. 641, Stats. 1986).....	2,988,672

Item	Amount
(3) 98.01.084.578-Filipino Employee Surveys (Ch. 845, Stats. 1978).....	0
(4) 98.01.088.981-Lis Pendens (Ch. 889, Stats. 1981).....	0
(5) 98.01.098.084-Proration of Fines and Court Audits (Ch. 980, Stats. 1984).....	0
(6) 98.01.099.991-Rape Victim Counseling Ctr. Notices (Ch. 999, Stats. 1991).....	157,896
(7) 98.01.128.180-Involuntary Lien Notices (Ch. 1281, Stats. 1980)....	0
(8) 98.01.160.984-Domestic Violence Information (Ch. 1609, Stats. 1984).....	0
(9) 98.01.133.487-CPR Pocket Masks (Ch. 1334, Stats. 1987)	0

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

Assembly Bill No. 425

CHAPTER 379

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 5, 2002. Filed with Secretary of State September 5, 2002.]

I object to the following appropriations contained in Assembly Bill 425.

Item 0450-101-0932—For local assistance, State Trial Court Funding. I reduce this item from \$2,069,477,000 to \$2,068,677,000 by reducing:

- (1) 10—Support for the operation of the Trial Courts from \$1,872,495,000 to \$1,871,695,000.

I am deleting the \$800,000 legislative augmentation to increase funding for family court services activities. Although this program is meritorious, deletion of funding for this program expansion is necessary in light of current fiscal constraints. With this action, \$111.5 million remains to support family court services.

Item 0450-111-0001—For transfer by the Controller to the Trial Court Trust Fund. I reduce this item from \$1,108,568,000 to \$1,079,568,000.

I am deleting the \$800,000 legislative augmentation to increase funding for family court services activities to conform to the action taken in Item 0450-101-0932.

I am reducing this transfer by \$28,200,000 on a one-time basis. This is a technical adjustment consistent with the January 10 proposal to reduce the 2001-02 transfer by this amount. Since the transfer to the Trial Court Trust Fund for fiscal year 2001-02 was inadvertently not reduced, this action is necessary and will still provide sufficient resources in the Trial Court Trust Fund to meet the level of appropriation provided in this act for 2002-03.

Item 0860-490—Reappropriation, Board of Equalization. I revise this item from \$639,000 to \$339,000 as follows:

“Notwithstanding any other provision of law, as of June 30, 2002, the unencumbered balance of the appropriation, not to exceed ~~\$639,000~~ \$339,000, provided in the following citations are reappropriated until June 30, 2003, upon review and approval of the Department of Finance for (1) preliminary plans, working drawings, or construction of any project for the alteration of a state or leased facility to facilitate the transition of new Board of Equalization members; and (2) the upgrade of one of the two CEA 1 allocations to the CEA 2 level in each of the elected Board Member offices to recognize the increased level of duties and responsibilities required.

0001—General Fund

- (1) Item 0860-001-0001, 10000000-Personal services, Budget Act of 2001 (Ch. 106, Stats. 2001)
- (2) Item 0860-001-0001, 30000000-Operating Expenses and Equipment, Budget Act of 2001 (Ch. 106, Stats. 2001)”

I am deleting \$300,000 of the \$639,000 reappropriation, which was for the purposes of facility upgrades for incoming Board members and upgrades of Board member positions. My reduction will enable \$300,000 to revert to the General Fund.

Item 0954-101-0001—For local assistance, Scholarshare Investment Board. I revise this item by deleting Provision 2.

I am deleting Provision 2, which states legislative intent to delay payments for 9th and 10th grade awards for the Governor's Scholars Program by one year. Current law requires that awards be provided to all students who meet the criteria for an award under this program. Therefore, this language expresses intent to enact a substantive

Item	Amount
<p>The allocation to the affected counties shall be made in proportion to the population of those counties as of January 1, 2002.</p>	
<p>9210-295-0001—For local assistance, Local Government Financing, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller</p>	3,000
<p>Schedule:</p>	
<p>(1) 98.01.048.675-Test Claims and Reimbursement Claims (Ch. 486, Stats. 1975)</p>	1,000
<p>(2) 98.01.064.186-Open Meetings Act Notices (Ch. 641, Stats. 1986).....</p>	1,000
<p>(3) 98.01.084.578-Filipino Employee Surveys (Ch. 845, Stats. 1978)</p>	0
<p>(4) 98.01.088.981-Lis Pendens (Ch. 889, Stats. 1981).....</p>	0
<p>(5) 98.01.098.084-Proration of Fines and Court Audits (Ch. 980, Stats. 1984).....</p>	0
<p>(6) 98.01.099.991-Rape Victim Counseling Ctr. Notices (Ch. 999, Stats. 1991).....</p>	1,000
<p>(7) 98.01.128.180-Involuntary Lien Notices (Ch. 1281, Stats. 1980)....</p>	0
<p>(8) 98.01.160.984-Domestic Violence Information (Ch. 1609, Stats. 1984).....</p>	0
<p>(9) 98.01.133.487-CPR Pocket Masks (Ch. 1334, Stats. 1987)</p>	0
<p>Provisions:</p>	
<p>1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5</p>	

Exhibit 7

Page 1

Court of Appeal, Third District, California.

**DEPARTMENT OF FINANCE, Plaintiff and
Appellant,**

v.

**COMMISSION ON STATE MANDATES,
Defendant and Respondent.**

**Kern High School District et al., Real Parties in
Interest and Respondents.**

No. C037645.

July 17, 2002.

122 Cal.Rptr.2d 447

167 Ed. Law Rep. 283, 2 Cal. Daily Op. Serv. 6362, 2002 Daily Journal D.A.R. 7992

Review Granted

Previously published at: 100 Cal.App.4th 243

(Cal. Const. art. 6, s 12; Cal. Rules of Court, Rules 28, 976, 977, 979)

(Cite as: 122 Cal.Rptr.2d 447)

F

Court of Appeal, Third District, California.

DEPARTMENT OF FINANCE, Plaintiff and
Appellant,

v.

COMMISSION ON STATE MANDATES,
Defendant and Respondent.Kern High School District et al., Real Parties in
Interest and Respondents.

No. C037645.

July 17, 2002.

Two school districts and one county filed a test claim with the Commission on State Mandates for a determination of whether two state statutes constituted reimbursable state mandates. The Commission determined they were. State, through its Department of Finance, brought an administrative mandate proceeding to review the Commission's decision. The Superior Court, Sacramento County, No. 00CS00866, Ronald B. Robie, J., denied petition. State appealed. The Court of Appeal, Davis, Acting P.J., held that: (1) the statutes concerned "programs" within meaning of state mandate laws; (2) statutes specified a "higher level of service for an existing program," within meaning of state mandate laws; but (3) to determine whether statutes created a "mandate," Commission was required to consider whether test claimants had a reasonable alternative or a true choice not to participate in the educational programs at issue, not whether they were legally compelled to do so; abrogating *County of Contra Costa v. State of California*, 177 Cal.App.3d 62, 222 Cal.Rptr. 750.

Reversed and remanded.

*448 Bill Lockyer, Attorney General, Manuel M. Medeiros, Senior Assistant Attorney General, *449 Andrea Lynn Hoch, Louis R. Mauro and Leslie R. Lopez, Deputy Attorneys General, for Plaintiff and Appellant.

Camille Shelton, Sacramento, for Defendant and Respondent.

Jo Anne Sawyerknoll, Sacramento, and Jose A. Gonzales, San Diego, for Real Party in Interest and Respondent San Diego Unified School District.

No appearance by Real Parties in Interest and Respondents Kern High School District and County of Santa Clara.

DAVIS, Acting P.J.

The question in this appeal is whether two state statutes--requiring local school site councils and advisory committees for certain educational programs to prepare and post an agenda for their meetings and to provide for public comment on agenda items--constitute a reimbursable state mandate under article XIII B, section 6 of California's Constitution. We agree with the trial court that these statutes specify a "higher level of service" under state mandate principles. [FN1] We also agree with the trial court that a state mandate is not limited to situations of legal compulsion. We construe state mandate as also extending to situations where the local governmental entity has no reasonable alternative to the state scheme, or has no true choice but to participate in it. The Commission on State Mandates (the Commission) did not consider these issues. We will therefore remand this matter to the Commission for it to determine whether the test claimants have a reasonable alternative or a true choice not to participate in the educational programs at issue, and thus a reasonable alternative to paying the higher costs associated with the higher level of service specified in the two challenged statutes. In light of this remand, we will reverse the trial court's judgment that upheld the Commission's decision finding a state mandate.

FN1. California Constitution, article XIII B, section 6; Government Code section 17514.

BACKGROUND

[1] In 1978, California voters adopted Proposition 13, which added article XIII A (Article XIII A) to the state Constitution. This measure limits the power of state and local governments to tax. [FN2] In 1979, the state voters added article XIII B to the

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Constitution (Article XIII B). This measure limits the power of state and local governments to spend. [FN3] These two constitutional measures work in tandem; their goal is to protect California residents from excessive government taxation and spending. [FN4]

FN2. California Constitution, article XIII A; see *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 80, 61 Cal.Rptr.2d 134, 931 P.2d 312 (*County of San Diego*).

FN3. See *County of San Diego, supra*, 15 Cal.4th at page 81, 61 Cal.Rptr.2d 134, 931 P.2d 312.

FN4. *County of San Diego, supra*, 15 Cal.4th at page 81, 61 Cal.Rptr.2d 134, 931 P.2d 312.

[2] Article XIII B includes section 6 (section 6 or Article XIII B, section 6), which sets forth the concept of reimbursable state mandates. With certain exceptions not relevant here, section 6 provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government ["local government" includes school districts], the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service...." [FN5] "Section 6 recognizes that articles XIII A and XIII B severely restrict the taxing and spending *450 powers of local governments. [Citation.] Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities" in light of Articles XIII A and XIII B. [FN6]

FN5. Article XIII B, section 6; see also Article XIII B, section 8, subdivision (d).

FN6. *County of San Diego, supra*, 15 Cal.4th at page 81, 61 Cal.Rptr.2d 134, 931

P.2d 312.

[3] A reimbursable state mandate does not equate to any "additional cost" that a state law may require a local government to bear. [FN7] The reimbursable mandate arises only when the state imposes on a local government a new program of governmental services or an increased level of service under an existing program. [FN8]

FN7. *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 55-57, 233 Cal.Rptr. 38, 729 P.2d 202 (*County of Los Angeles*); *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 277, 99 Cal.Rptr.2d 333 (*City of El Monte*).

FN8. *City of El Monte, supra*, 83 Cal.App.4th at page 277, 99 Cal.Rptr.2d 333; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835, 244 Cal.Rptr. 677, 750 P.2d 318 (*Lucia Mar*); see also *County of Los Angeles, supra*, 43 Cal.3d at page 56, 233 Cal.Rptr. 38, 729 P.2d 202.

In the Government Code, the Legislature has set forth the procedure for determining whether a state law imposes state-mandated costs on a school district or other local agency under Article XIII B, section 6. [FN9] Pursuant to that procedure, two school districts (San Diego Unified and Kern High) and one county (Santa Clara) filed a "test claim" with the Commission. [FN10] Kern High and Santa Clara did not appear in the trial court proceedings, and we will refer to the test claimants as such or simply as San Diego Unified.

FN9. Government Code section 17500 et seq.; *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-333, 285 Cal.Rptr. 66, 814 P.2d 1308 (*Kinlaw*).

FN10. Government Code sections 17521, 17551, subdivision (a).

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The test claim concerned two statutes: Government Code section 54952, as amended by Statutes 1993, chapter 1138 (this measure operated from April 1, 1994 to July 21, 1994, for the school site councils and advisory committees at issue here); and Education Code section 35147, as added by Statutes 1994, chapter 239, as an urgency measure (effective from July 21, 1994, onward, for those councils and committees). These two statutes will be referred to as the Test Claim statutes or the two Test Claim statutes.

The 1993 amendment to Government Code section 54952 redefined the "legislative body" that must comply with the open meeting requirements of the Ralph M. Brown Act (the Brown Act), [FN11] including the requirement imposed by Government Code section 54954.2 to prepare and post an agenda. As amended by the 1993 legislation, section 54952 provides in relevant part:

FN11. See Government Code section 54950.5.

"As used in this chapter, 'legislative body' means:

"(a) The governing body of a local agency or any other local body created by state or federal statute.

"(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body...."

Education Code section 35147 requires nine designated school site councils and advisory committees to comply with certain notice, agenda, and public comment requirements, but otherwise exempts them *451 from the Brown Act and other open meeting acts. Section 35147 specifies in relevant part:

"(a) Except as specified in this section, any meeting of the councils or committees specified in subdivision (b) is exempt from the provisions of this article, the Bagley-Keene Open Meeting Act ..., and the Ralph M. Brown Act....

"(b) The councils and schoolsite advisory committees established pursuant to Education Code Sections 52012, 52065, 52176, and 52852, subdivision (b) of Section 54425, Sections 54444.2, 54724, and 62002.5, and committees formed pursuant to Section 11503 or [former] Section 2604 of Title 25 of the United States Code, are subject to this section.

"(c) Any meeting held by a council or committee specified in subdivision (b) shall be open to the public and any member of the public shall be able to address the council or committee during the meeting on any item within the subject matter jurisdiction of the council or committee. Notice of the meeting shall be posted at the schoolsite, or other appropriate place accessible to the public, at least 72 hours before the time set for the meeting. The notice shall specify the date, time, and location of the meeting and contain an agenda describing each item of business to be discussed or acted upon. The council or committee may not take any action on any item of business unless that item appeared on the posted agenda or unless the council or committee members present, by unanimous vote, find that there is a need to take immediate action and that the need for action came to the attention of the council or committee subsequent to the posting of the agenda. Questions or brief statements made at a meeting by members of the council, committee, or public that do not have a significant effect on pupils or employees in the school or school district or that can be resolved solely by the provision of information need not be described on an agenda as items of business. If a council or committee violates the procedural meeting requirements of this section and upon demand of any person, the council or committee shall reconsider the item at its next meeting, after allowing for public input on the item.

"(d) Any materials provided to a schoolsite council shall be made available to any member of the public who requests the materials pursuant to the California Public Records Act...."

The nine school site councils and advisory committees specified in Education Code section 35147, subdivision (b), were, save for one, established by statutes enacted in the 1970's and 1980's as part of the following programs: the School Improvement Plan (a general program that disburses money across all aspects of school operation and

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performance; Educ.Code, § § 52012, 52015); the Native American Indian Education Program (Educ.Code, § 52065); the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 (Educ.Code, § § 52160, 52176); the School-Based Program Coordination Act (to coordinate various categorical aid programs; Educ.Code, § § 52850, 52852); the McAteer Act (compensatory education program--for programs beyond regular education program; Educ.Code, § § 54403, 54425, subd. (b)); the migrant education program (Educ.Code, § 54444.2); the School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act (to address truancy and dropout issues; Educ.Code, § § 54720, 54724); the Program[] to Encourage Parental Involvement (Educ.Code, § 11503, enacted 1990); and the federal Indian Education Program (see former 25 U.S.C. § 2604; now see 20 U.S.C. § 7801 et seq.).

*452 In the test claim, San Diego Unified alleged that the Test Claim statutes imposed certain open meeting requirements on these school site councils and advisory committees, constituting reimbursable state mandates. The Commission agreed. It found the statutes constituted reimbursable state mandates for the costs of preparing specified meeting agendas, posting those agendas, and providing the opportunity for the public to address agenda items.

Pursuant to Government Code section 17559, the state Department of Finance (the State) brought an administrative mandate proceeding to review the Commission's decision. [FN12] The trial court agreed with the Commission, stating: "Two primary issues are raised in this matter. The first issue is whether the 1993 amendments to the Brown Act [i.e., to Government Code section 54952] and the 1994 enactment of ... section 35147 mandate a new program or higher level of service. The Court concludes that they do. The second issue is whether a reimbursable state mandate is created only when an advisory council or committee which is subject to the Brown Act is required by state law. The Court concludes that it is not. [¶] The petition for writ of mandate is DENIED."

FN12. Government Code section 17559, subdivision (b).

These are the two issues before us as well. Government Code section 17559 requires that the trial court review the Commission's decision under the substantial evidence standard; where the trial court applies this standard, we are generally confined to inquiring whether substantial evidence supports that court's decision. [FN13] However, we independently review the trial court's "legal conclusions about the meaning and effect of constitutional and statutory provisions." [FN14]

FN13. City of San Jose v. State of California (1996) 45 Cal.App.4th 1802, 1810, 53 Cal.Rptr.2d 521 (City of San Jose).

FN14. City of San Jose, supra, 45 Cal.App.4th at page 1810, 53 Cal.Rptr.2d 521.

DISCUSSION

1. New Program or Higher Level of Service for an Existing Program

[4][5] A reimbursable state mandate is created only when the state "mandates" a "new program" or a "higher level of service" for an existing program on any local government, including a school district. [FN15] "Program" has its commonly understood meaning: a program carries out "the governmental function of providing services to the public"; or it is a law "which, to implement a state policy, impose[s] unique requirements on local governments and do[es] not apply generally to all residents and entities in the state." [FN16]

FN15. Article XIII B, sections 6, 8, subdivision (d); Government Code section 17514; Lucia Mar, supra, 44 Cal.3d at page 835, 244 Cal.Rptr. 677, 750 P.2d 318; City of El Monte, supra, 83 Cal.App.4th at page 277, 99 Cal.Rptr.2d 333.

FN16. County of Los Angeles, supra, 43 Cal.3d at page 56, 233 Cal.Rptr. 38, 729 P.2d 202.

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In this part of the opinion, we address the issue of whether the two Test Claim statutes reflect a "new program" or a "higher level of service" for an existing program. In the next part, we confront the issue of whether the two statutes "mandate" the program services.

The parties spend considerable time on whether the school site councils and advisory bodies were "legislative bodies" subject to the Brown Act before the Test Claim statutes, and thus whether the Test Claim statutes involve a "new program." *453 We need not resolve this matter. Even assuming the school site councils and advisory committees were subject to the Brown Act before the advent of the two Test Claim statutes, these two statutes reflect a "higher level of service" for existing programs. [FN17]

FN17. Article XIII B, section 6; Government Code section 17514; see *City of El Monte, supra*, 83 Cal.App.4th at page 277, 99 Cal.Rptr.2d 333.

[6] As a preliminary matter, we note that we are dealing with "programs" within the meaning of the state mandate laws. The provision of educational services--as carried out by the school site councils and advisory committees at issue--is certainly a governmental program, as that term is commonly understood. The two Test Claim statutes, as well, set forth unique requirements on local government (school districts) to further the state policy of open public meetings; these requirements do not apply generally to residents and entities in the state.

On the issue of "higher level of service," the 1993 legislative package that redefined "legislative body" for Brown Act purposes in section 54952 also repealed a Brown Act statute that applied to advisory bodies of local agencies, including advisory bodies of school districts. [FN18] The repealed Brown Act statute was Government Code section 54952.3; as enacted, it provided in relevant part:

FN18. Statutes 1993, chapter 1138, sections 3, 5, pages 6387-6388; see Government Code section 54951.

"As used in this chapter 'legislative body' also includes any advisory commission, advisory committee or advisory body of a local agency, created by charter, ordinance, resolution, or by any similar formal action of a governing body of a local agency.

"Meetings of such advisory commissions, committees or bodies ... shall be open and public, and notice thereof must be delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting.

"If the advisory commission, committee or body elects to provide for the holding of regular meetings, it shall provide by bylaws, or by whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. No other notice of regular meetings is required..." [FN19]

FN19. Former Government Code section 54952.3 (added by Stats.1968, ch. 1297, § 1, p. 2444 [note: amended nonsubstantively by Stats.1975, ch. 959, § 7, p. 2241, and by Stats.1981, ch. 968, § 26, p. 3694]), italics added.

The State concedes that all of the school site councils and advisory committees at issue here are advisory bodies. This is borne out by their similar treatment as advisory entities within Education Code section 35147.

The two Test Claim statutes reflect a higher level of service for the existing programs served by these councils and committees than what former Government Code section 54952.3 specified. The Test Claim statutes require that meeting agendas be prepared and posted at least 72 hours before the meeting, and that the public be allowed to address agenda items. [FN20] These requirements are above *454 those specified in the italicized portions of former Government Code section 54952.3, set forth *ante*. No party has disputed that the increased amount of costs involving this higher level of service is significant and surpasses the statutory minimum cost mandate set forth in Government Code section

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17564.

FN20. See Government Code section 54954.2, imposing such Brown Act requirements on the advisory bodies at issue here from April 1, 1994 to July 21, 1994; see also Education Code section 35147, imposing such requirements on these advisory bodies from July 21, 1994, onward.

We conclude that the Test Claim statutes specify a "higher level of service" for existing programs. We now turn to the thornier issue: whether these two statutes "mandate" a higher level of service.

2. "Mandate" a Higher Level of Service

[7] For there to be a reimbursable state mandate here, the Constitution and Government Code require that the Test Claim statutes "mandate" a higher level of service. [FN21]

FN21. Article XIII B, section 6; Government Code section 17514.

The State argues that the school site councils and advisory committees referred to in the Test Claim statutes serve categorical aid programs that school districts participate in either voluntarily or as a condition to receive state or federal funds. From this, the State concludes that, *as a matter of law*, where a school district participates in a state statutory program voluntarily or conditionally, the State may impose reasonable requirements on the district without providing a reimbursable state mandate, because the State has not *legally mandated* such program participation. While the State's position looks strong on the surface, there are cracks in its foundation.

The State's position finds support in a 1984 appellate court decision, City of Merced v. State of California. [FN22] The question there was whether a new state statute that required compensation for business goodwill in local eminent domain proceedings constituted a reimbursable state mandate under statutory law. The court said no, reasoning "that whether a city or county decides to exercise eminent

domain is, essentially, an option of the city or county, rather than a mandate of the state. The fundamental concept is that the city or county is not required to exercise eminent domain.... Thus, payment for loss of goodwill is not a state-mandated cost." [FN23]

FN22. City of Merced v. State of California (1984) 153 Cal.App.3d 777, 200 Cal.Rptr. 642 (City of Merced).

FN23. City of Merced, supra, 153 Cal.App.3d at page 783, 200 Cal.Rptr. 642.

Two months after City of Merced, this court, in City of Sacramento v. State of California (Sacramento I), [FN24] employed similar reasoning. The question in Sacramento I was whether a state law requiring local public employees to be covered by the state unemployment insurance law constituted a state mandate under Article XIII B, section 6, and statutory law. [FN25] The State asserted that it was only complying with a federal requirement rather than imposing a state mandate. [FN26] The federal component of the unemployment insurance system induced states to cover local public employees, by making the states incur substantial political and economic *455 detriment for not doing so. [FN27] We looked at the definition of a federal mandate in Article XIII B, section 9, subdivision (b), which directs compliance "without discretion" or "which unavoidably make[s] the provision of existing services more costly" (costs of federal mandates are not within Article XIII B's spending limits for state and local governments). A federal mandate, we reasoned, is one in which the mandated governmental entity "has *no discretion* to refuse." [FN28] We concluded that while it was economically and politically detrimental for the State not to comply with the federal law, the State still had the *legal discretion* not to do so; however, the local government had no discretion whether to comply with the state statute. [FN29] Thus, the state statute constituted a reimbursable state mandate.

FN24. City of Sacramento v. State of California (1984) 156 Cal.App.3d 182, 203 Cal.Rptr. 258 (Sacramento I); see also County of Contra Costa v. State of

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California (1986) 177 Cal.App.3d 62, 79-80, footnote 10, 222 Cal.Rptr. 750 (County of Contra Costa).

FN25. Sacramento I, supra, 156 Cal.App.3d at page 186, 203 Cal.Rptr. 258.

FN26. Sacramento I, supra, 156 Cal.App.3d at page 186, 203 Cal.Rptr. 258.

FN27. Sacramento I, supra, 156 Cal.App.3d at page 187, 203 Cal.Rptr. 258.

FN28. Sacramento I, supra, 156 Cal.App.3d at page 197, 203 Cal.Rptr. 258.

FN29. Sacramento I, supra, 156 Cal.App.3d at pages 196-197, 203 Cal.Rptr. 258.

In 1986, in County of Contra Costa, this court agreed with City of Merced that the state statute requiring the payment of business goodwill in eminent domain proceedings did not constitute a state-mandated cost. [FN30] We noted that "we employed analogous reasoning in [Sacramento I]." [FN31] We characterized Sacramento I as follows: "There the city contended that a state law requiring public employees to be covered by the state unemployment insurance law constituted a state mandate. The state countered that it was only complying with a federal requirement.... We noted that federal law provided financial incentives and that it would have been politically unpalatable for the state to refuse to extend coverage to public employees, but nonetheless the decision was optional with the state.... The same reasoning applies here: the decision to proceed in eminent domain is optional with the local government. Since the state does not mandate that the local agency incur the costs it claims, the agency is not entitled to reimbursement from the state." [FN32]

FN30. County of Contra Costa, supra, 177 Cal.App.3d at pages 79- 80 & footnote 10, 222 Cal.Rptr. 750.

FN31. County of Contra Costa, supra, 177 Cal.App.3d at page 79, footnote 10, 222 Cal.Rptr. 750.

FN32. County of Contra Costa, supra, 177 Cal.App.3d at pages 79- 80, footnote 10, 222 Cal.Rptr. 750.

In 1990, the state Supreme Court, in City of Sacramento v. State of California (Sacramento II), [FN33] rejected our reasoning in Sacramento I. The issue of state mandate in Sacramento II was the same as in Sacramento I, and again implicated the question of federal mandate. [FN34] Sacramento II did not directly review Sacramento I, but involved litigation arising from a Sacramento I remand. [FN35]

FN33. City of Sacramento v. State of California (1990) 50 Cal.3d 51, 266 Cal.Rptr. 139, 785 P.2d 522 (Sacramento II).

FN34. Sacramento II, supra, 50 Cal.3d at pages 57, 70, 266 Cal.Rptr. 139, 785 P.2d 522.

FN35. Sacramento II, supra, 50 Cal.3d at pages 59-60, 266 Cal.Rptr. 139, 785 P.2d 522; see Hayes v. Commission on State Mandates (1992) 11 Cal.App.4th 1564, 1581, footnote 8, 15 Cal.Rptr.2d 547 (Hayes).

As in Sacramento I, the argument in Sacramento II supporting a narrower view of mandate was that the words "without discretion" and "unavoidably" in the Article XIII B, section 9, subdivision (b) definition of federal mandate require that there be clear legal compulsion for there to be a *456 federal mandate. [FN36] The argument supporting a broader view of mandate countered that the consequences of California's failure to comply with the federal "carrot and stick" scheme were so substantial that the state had no realistic "discretion" to refuse, and thus there

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was a federal mandate because of *practical compulsion*. [FN37]

FN36. *Sacramento II, supra*, 50 Cal.3d at page 71, 266 Cal.Rptr. 139, 785 P.2d 522.

FN37. *Sacramento II, supra*, 50 Cal.3d at page 71, 266 Cal.Rptr. 139, 785 P.2d 522.

The *Sacramento II* court adopted the broader view of mandate, disagreeing with our adoption of the narrower view in *Sacramento I*. In doing so, the high court noted that the vast bulk of cost-producing federal influence on state and local government is by inducement or incentive rather than by direct legal compulsion. [FN38] The court noted that "certain regulatory standards imposed by the federal government under 'cooperative federalism' [i.e., federal-state carrot and stick] schemes are coercive on the states and localities in every practical sense." [FN39] The test for determining whether there is a federal mandate, *Sacramento II* concluded, is whether compliance with federal standards "is a matter of true choice," that is, whether participation in the federal program "is truly voluntary." [FN40] *Sacramento II* went on to say: "Given the variety of cooperative federal-state-local programs, we here attempt no final test for 'mandatory' versus 'optional' compliance with federal law. A determination in each case must depend on such factors as the nature and purpose of the federal program; whether its design suggests an intent to coerce; when state and/or local participation began; the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal." [FN41]

FN38. *Sacramento II, supra*, 50 Cal.3d at page 73, 266 Cal.Rptr. 139, 785 P.2d 522.

FN39. *Sacramento II, supra*, 50 Cal.3d at pages 73-74, 266 Cal.Rptr. 139, 785 P.2d 522.

FN40. *Sacramento II, supra*, 50 Cal.3d at

page 76, 266 Cal.Rptr. 139, 785 P.2d 522; see also *Hayes, supra*, 11 Cal.App.4th at pages 1581- 1582, 15 Cal.Rptr.2d 547.

FN41. *Sacramento II, supra*, 50 Cal.3d at page 76, 266 Cal.Rptr. 139, 785 P.2d 522.

Another state Supreme Court decision that has some bearing on the question of state mandate in terms of legal versus practical compulsion is *Lucia Mar*. [FN42] The issues there were whether a state statute that required school districts to contribute part of the cost of educating disabled pupils at state schools constituted a "new program" for the districts, and whether the districts were "mandated" by the state to make these contributions. [FN43] The argument in *Lucia Mar* that there was no state mandate was that the school districts had the option, under another state statute, to provide a local program for disabled children, to send them to private schools, or to refer them to the state schools. [FN44] The argument in favor of a state mandate was that the districts " had no other reasonable alternative than to utilize the services of the state[] schools, as they [were] the least expensive alternative in educating [disabled] children." [FN45] Since the Commission in *Lucia Mar* had concluded that "457 the state statute at issue did not specify a "new program" or "higher level of service," it never reached the issue of state "mandate." The *Lucia Mar* court concluded there was a "new program," and remanded the mandate issue to the Commission without explicitly resolving whether the concept of state mandate is confined to legal compulsion or whether it extends to practical compulsion as well. [FN46]

FN42. *Lucia Mar, supra*, 44 Cal.3d 830, 244 Cal.Rptr. 677, 750 P.2d 318.

FN43. *Lucia Mar, supra*, 44 Cal.3d at pages 832, 836, 244 Cal.Rptr. 677, 750 P.2d 318.

FN44. *Lucia Mar, supra*, 44 Cal.3d at page 837, 244 Cal.Rptr. 677, 750 P.2d 318.

FN45. *Lucia Mar, supra*, 44 Cal.3d at page

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837, 244 Cal.Rptr. 677, 750 P.2d 318.FN46. Lucia Mar. supra, 44 Cal.3d at pages 836-837, 838, 244 Cal.Rptr. 677, 750 P.2d 318.

Citing *Lucia Mar's* mandate discussion, two appellate court decisions have characterized the concept of state mandate in terms of whether the local governmental entity has an alternative to the state scheme. The first decision, *County of Los Angeles v. Commission on State Mandates*, noted that if "a local entity or school district has alternatives under the statute other than the mandated [cost], it does not constitute a state mandate." [FN47] Like *Lucia Mar*, though, *County of Los Angeles v. Commission on State Mandates* does not say whether these "alternatives," for state mandate purposes, are just legal alternatives or whether they encompass practical alternatives as well. The second decision is a recent decision from this court, *City of El Monte*. [FN48] We observed there that "[t]he possible existence of reasonable alternatives ... [leaves] open the question whether the [state-directed cost] [was] mandated...." [FN49]

FN47. County of Los Angeles v. Commission on State Mandates (1995) 32 Cal.App.4th 805, 818, 38 Cal.Rptr.2d 304, citing Lucia Mar, supra, 44 Cal.3d at pages 836-837, 244 Cal.Rptr. 677, 750 P.2d 318.

FN48. City of El Monte, supra, 83 Cal.App.4th 266, 99 Cal.Rptr.2d 333.

FN49. City of El Monte, supra, 83 Cal.App.4th at page 278, footnote 6, 99 Cal.Rptr.2d 333, italics added, citing Lucia Mar, supra, 44 Cal.3d at pages 836-837, 244 Cal.Rptr. 677, 750 P.2d 318.

[8] In line with *Sacramento II's* approach to mandate and with this court's characterization of *Lucia Mar* in *City of El Monte*, we define the concept of state mandate to include situations where the local governmental entity has no reasonable alternative to

the state scheme or no true choice but to participate in it, rather than confine the concept to direct legal compulsion as argued by the State. Our definition aligns with the constitutional and statutory language relating to state mandate when viewed against the backdrop of how the concept of federal mandate in Article XIII B has been interpreted by our Supreme Court. Article XIII B, section 6, as pertinent, states simply that "[w]henver the Legislature or any state agency mandates a new program or higher level of service on any local government," the State shall pay for that mandate. Government Code section 17514, part of the statutory scheme that implements Article XIII B, section 6, defines "[c]osts mandated by the state" to mean, as relevant here, "any increased costs which a local agency or school district is required to incur ... as a result of any statute ... which mandates a new program or higher level of service of an existing program." [FN50] Although Article XIII B defines a federal mandate as one being "without discretion" or involving "unavoidabl[e]" costs, [FN51] our Supreme Court has interpreted that mandate along the lines of whether reasonable, practical alternatives exist to the federal directive. [FN52] Given the less mandatory language surrounding the definition of state mandate, *458 we construe the Article XIII B concept of state mandate along these same lines. Like the pervasive "carrot and stick" approach to federal-state relations that prompted the federal mandate interpretation, a similar approach pervades state-local relations, as the educational programs referenced in the test claim statute of Education Code section 35147 aptly illustrate.

FN50. See Government Code section 17500.

FN51. Article XIII B, section 9, subdivision (b).

FN52. Sacramento II, supra, 50 Cal.3d at pages 70-76, 266 Cal.Rptr. 139, 785 P.2d 522.

[9] At oral argument, the State emphasized the statutory language of Government Code section 17513 defining "[c]osts mandated by the federal government" as including "costs resulting from enactment of a state law or regulation where failure

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to enact that law or regulation to meet specific federal program or service requirements *would result in substantial monetary penalties or loss of funds to public or private persons in the state.*" (Italics added.) The State noted that similar language does not appear in the statutory definition of "[c]osts mandated by the state" set forth in Government Code section 17514. Nevertheless, as the Sacramento II court observed, Government Code sections 17513 and 17514 merely implement the constitutional language of Article XIII B; the focus of the Sacramento II's "mandate" analysis remained on Article XIII B, section 9's language of "without discretion" and "unavoidabl[e]." [FN53] In any event, statutory language cannot trump constitutional language nor our high court's interpretation of that constitutional language.

FN53. Sacramento II, supra, 50 Cal.3d at pages 70-76, 266 Cal.Rptr. 139, 785 P.2d 522; see Government Code section 17500.

That brings us full circle to the State's argument here. The State argues that, *as a matter of law*, where a local governmental entity participates in a state statutory program either voluntarily or as a condition of receiving funds, the State may impose reasonable requirements on the entity without having to pay a reimbursable state mandate. The key to this argument is that the concept of voluntary or conditional participation encompasses *all* participation except that which is *legally* compelled. Applying this argument, then, the State notes that since San Diego Unified is not *legally* compelled to offer the programs for which the Test Claim statutes increase the agenda and public comment costs, that is the end of the analysis--there can be no state mandate as a matter of law. San Diego Unified may simply discontinue these "discretionary," "voluntary," "optional" programs (i.e., not *legally* compelled programs) and not incur the additional costs of posting and preparing meeting agendas, and providing for public comment on agenda items, pursuant to the Test Claim statutes.

However, for the reasons set forth above, we do not construe state mandate as limited to situations of *legal* compulsion. We construe it to also encompass situations where there is no reasonable alternative or no true choice but to participate in the state scheme.

The State's narrow view of state mandate ignores the realities of how contemporary multilevel governments carry out much of their business.

The Commission never considered the issues whether the test claimants have a reasonable alternative or a true choice not to participate in the educational programs at issue, and thus a reasonable alternative to paying the higher costs associated with the "higher level of service" specified in Education Code section 35147 and Government Code section 54952. We will remand this matter to the Commission for it to resolve these issues, because the *459 Commission is charged with initially deciding whether a local agency is entitled to reimbursement under Article XIII B, section 6. [FN54] furthermore, the statutory procedure to implement ARTICLE XIII B, section 6, "establishes procedures ... for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created." [FN55]

FN54. See Lucia Mar, supra, 44 Cal.3d at page 837, 244 Cal.Rptr. 677, 750 P.2d 318; Government Code section 17551; see also Government Code section 17500.

FN55. Kinlaw, supra, 54 Cal.3d at page 333, 285 Cal.Rptr. 66, 814 P.2d 1308; see also Government Code section 17500 et seq.

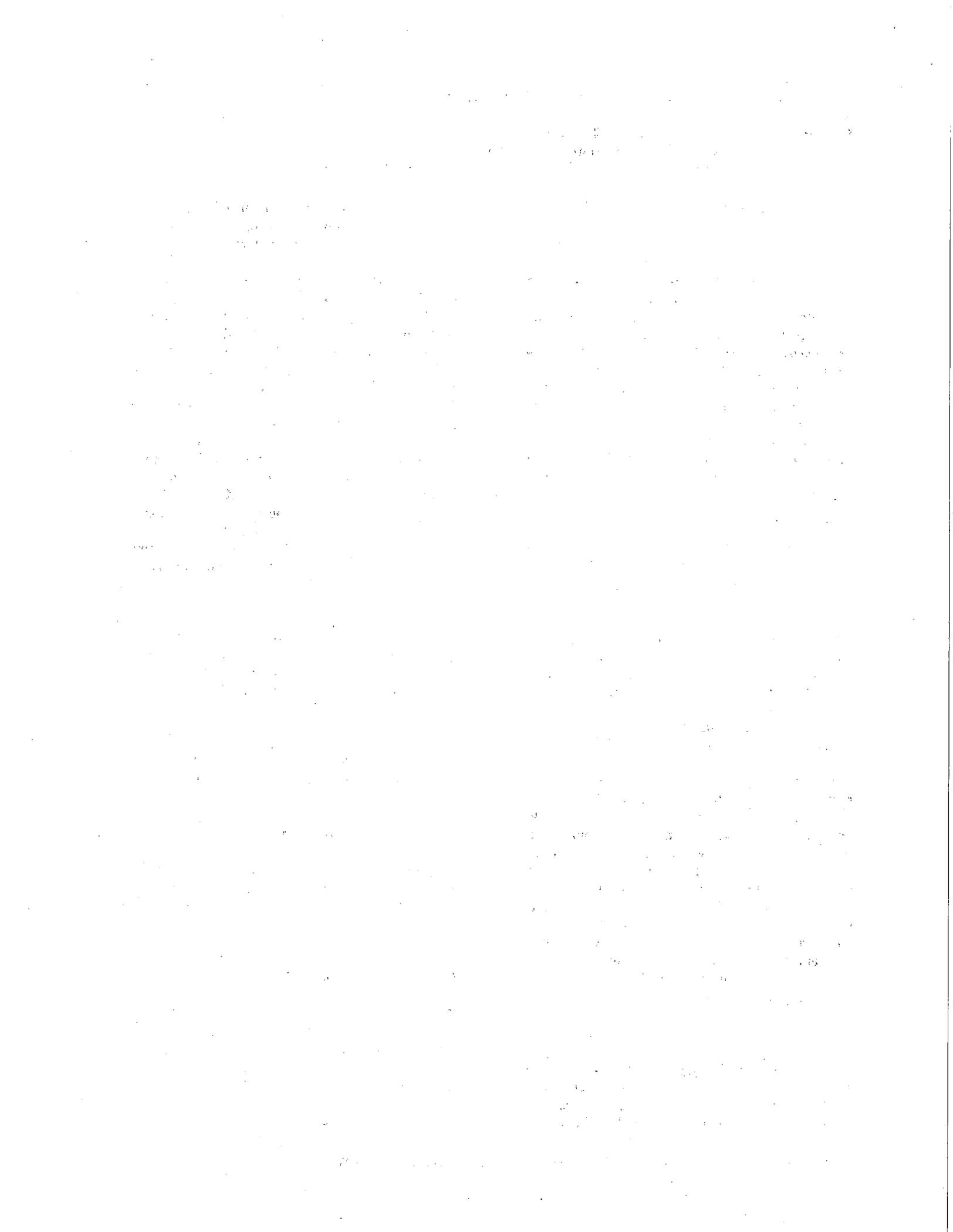
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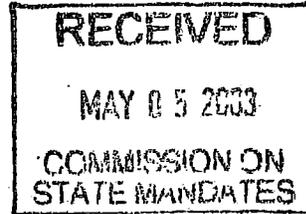
The judgment is reversed, and this matter is remanded to the Commission for further proceedings consistent with this opinion. Each party will pay its own appellate costs.

We concur: NICHOLSON and HULL, JJ.

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PUBLIC HEARING

COMMISSION ON STATE MANDATES

**CERTIFIED
COPY**

---o0o---

TIME: 9:35 a.m.

DATE: Thursday, April 24, 2003

PLACE: Commission on State Mandates
State Capitol, Room 126
Sacramento, California

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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A P P E A R A N C E S

COMMISSIONERS PRESENT

ROBERT MIYASHIRO, Chair
Representative of STEVE PEACE
Director
Department of Finance

WILLIAM SHERWOOD, Vice Chair
Representative of PHILIP ANGELIDES
State Treasurer

WALTER BARNES, Chief Deputy State Controller
Representative of Steve Westly
State Controller

SHERRY WILLIAMS, Legislative Analyst
Representative of Tal Finney
Interim Director
Office of Planning and Research

JOHN S. LAZAR
City Council Member
City of Turlock

---o0o---

COMMISSION STAFF PRESENT

PAULA HIGASHI, Executive Director
CAMILLE SHELTON, Commission Counsel
NANCY PATTON, Staff Services Manager
PAUL M. STARKEY, Chief Legal Counsel
ERIC FELLER, Staff Counsel

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1 further discussion? Hearing none, Paula, please call roll.

2 MS. HIGASHI: Mr. Lazar?

3 MR. LAZAR: Yes.

4 MS. HIGASHI: Mr. Sherwood?

5 MR. SHERWOOD: Yes.

6 MS. HIGASHI: Ms. Williams?

7 MS. WILLIAMS: Yes.

8 MS. HIGASHI: Mr. Miyashiro?

9 CHAIR MIYASHIRO: Yes.

10 MS. HIGASHI: Mr. Barnes?

11 MR. BARNES: Yes.

12 MS. HIGASHI: Forgot you.

13 MR. BARNES: Thank you.

14 MS. STONE: Thank you very much.

15 CHAIR MIYASHIRO: Okay. Let's move to the next
16 item.

17 MS. HIGASHI: Now up to Item 5 in your binder.

18 Commission Counsel Camille Shelton will present this item.

19 We have some handouts before you, related to towed
20 this item.

21 MS. SHELTON: I think the claimant also has some
22 handouts. Right?

23 MR. KAYE: Yes. Yeah.

24 MS. SHELTON: This test claim has been filed on
25 Penal Code Section 13730, as added in 1984 and amended in

1 1995. It's also been as the Family Code 6228, which is
2 known as the Access to Domestic Violence Reports Act of
3 1999. The claimant is seeking reimbursement for the
4 activities of preparing domestic violence incident reports
5 after each law enforcement call, storing those reports for
6 five years, and providing, retrieving and copying the
7 reports upon request by a victim of domestic violence.

8 As plead, staff recommends the Commission find
9 that it does not have jurisdiction over Penal Code section
10 13730 because the Commission has approved two prior test
11 claims on the statute, as added in 1984 and 1995. That
12 statute required law enforcement agencies to develop an
13 incident report form and report local domestic violence
14 information to the Department of Justice on a monthly
15 basis. Under the parameters and guidelines for the
16 program, claimants were eligible to receive reimbursement
17 for the cost of writing the reports.

18 As indicated in the staff analysis, staff further
19 recommends that the Commission approve Family Code section
20 6228 as a reimbursable State-mandated program for only the
21 activity of storing the report for five years after it is
22 completed.

23 The additional information in front of you is the
24 blue sheet, which is just the supplemental information to
25 clarify exactly the budget bills that suspended the Penal

1 Code Section 13730 as originated in 1984 by Chapter 1609.
2 Also, is this yellow sheet, which is part of Exhibit C,
3 which we noticed yesterday was not a complete Statement of
4 Decision of the 1995 Commission Decision, so we're just
5 trying to complete that record.

6 Will the parties please state your name for
7 record.

8 MR. KAYE: Leonard Kaye, County of Los Angeles.

9 MR. BILOWIT: Wayne Bilowit on behalf of Los
10 Angeles County Sheriff Department.

11 MR. ANDERSON: Dirk Anderson, Department of
12 Finance.

13 MS. GEANACOU: Susan Geanacou, Department of
14 Finance.

15 CHAIR MIYASHIRO: Mr. Kaye, will you start us
16 off?

17 MR. KAYE: Thank you, Mr. Miyashiro.

18 Before I begin, I -- and again, I was busy before
19 the -- the hearing in the preliminary parts, but were we
20 sworn in?

21 MS. HIGASHI: I did swear in. But were you
22 missing at the time?

23 MR. KAYE: I think I was.

24 MS. HIGASHI: Then let's do it right now.

25 MR. KAYE: Okay. Thank you.

1 MS. KAYE: For the two witnesses for the County of
2 Los Angeles, please raise your right hands.

3 Do you solemnly swear or affirm that the testimony
4 which you're about to give is true and correct, based upon
5 your personal knowledge and information or belief?

6 MR. KAYE: I do.

7 MR. BILOWIT: I do.

8 MS. HIGASHI: Thank you.

9 MR. KAYE: Thank you.

10 Now that we've done the preliminaries, it's my
11 pleasure to be hear this morning and to talk about this
12 very, very important local law enforcement program. The
13 County concurs with Commission staff's very detailed
14 analysis, finding that storage costs are reimbursable. But
15 we respectfully disagree with staff's contention that the
16 cost of repairing, retrieving and copying domestic violence
17 incident reports are not.

18 The County finds that the duties to prepare, store
19 retrieve and copy section -- Family Code Section 6228
20 reports, we find those duties to be mandatory. Without all
21 such mandatory duties, the Legislature could not assure
22 victims access to the reports, precisely the problem with
23 the access to Domestic Violence Reports Acts of 1999. The
24 Test Claim Legislation was intended to correct.

25 And I might add that the Department of Finance, in

1 their enrollability report on AB 403, which is the same as
2 the Test Claim Legislation Chapter 1022 Statutes of 1999,
3 found that -- and it's on -- I believe bates page 373 --
4 found that 2.2 million of one time cost and \$440,000 in
5 continuing costs would be imposed under this Test Claim
6 Legislation upon local law enforcement agencies in the
7 State of California.

8 We believe that Family Code Section 6228 plainly
9 requires that a domestic particular violence incident
10 report and face sheet shall be made available to the
11 domestic violence victim. There are no exceptions. There
12 are no excuses for not doing so. The County has no
13 alternative but to prepare, in order to provide domestic
14 violence incident reports and face sheets. This type of
15 mandatory duty was found to be reimbursable, and Department
16 of Finance, the Commission on State Mandates, current High
17 School District, et al., Case Number C037645, which I
18 believe you've been given a -- a copy of, just to -- as --
19 as a courtesy to ease our citations here.

20 In this -- actually it's a Commission case. The
21 Third District Appellate Court decided in their opinion,
22 issued on July 17th, 2002, on the last page on the exhibit
23 that's before you, that we do not construe State Mandate as
24 limited to situations of legal compulsion. We construe it
25 to also encompass situations where there is no reimbursable

1 alternative or no true choice but to participate in the
2 states scheme. And we certainly agree with this reasoning
3 and with this result.

4 Here, we have no true choice, no reasonable
5 alternative but to prepare in order to provide domestic
6 violence incident reports as requested by domestic violence
7 victims. Also, in this case, the Legislature, in Family
8 Code Section 6228, was careful not to specifically
9 reference domestic violence report and face sheets in Penal
10 Code Section 13730. The citation Penal Code Section 13730
11 is not to be found in Section 6228 of the Family Code.
12 Therefore, even if Section 13730 has been made optional,
13 as staff suggests, or even repealed, the duty to prepare in
14 order to provide some type of domestic violence incident
15 report and face sheet under Section 6228 survives. And
16 such duty is independent and apart from the duties set
17 forth in section 13730.

18 Accordingly, we believe approval of the County's
19 claim as submitted is required. In particular, the staff's
20 proposal that preparation of domestic violence incident
21 reports and face sheets under Section 6228, we believe,
22 should be stricken, and in its place language adopted along
23 the following lines. Family Code Section 6228 imposes a
24 new program or higher level of service and cost mandated by
25 the State for activity of preparing in order to provide

1 requested domestic violence incident reports and face
2 sheets.

3 Thank you very much.

4 CHAIR MIYASHIRO: Thank you.

5 MR. BILOWIT: Good morning. I'm Sergeant Wayne
6 Bilowit with the Los Angeles County Sheriffs Department.
7 I'm here to provide two different perspectives. If you
8 have any questions on, one, on particularly being a
9 sergeant out in the field, and answer most of your
10 questions, or try to answer most of your questions
11 concerning domestic violence reports. And secondly, and
12 for the last four years, being the Sheriff's Legislative
13 Advocate up here, I, on a number of bills that became law
14 dealing with domestic violence, have either appeared to
15 testify, or actually at the time noticing and taking some
16 degrees, and actually wrote one of those sections
17 concerning that that has become law.

18 So I'd be more than happy to answer any questions
19 concerning any of those issues. Thank you.

20 CHAIR MIYASHIRO: Okay. Department of Finance?

21 MS. GEANACOU: Thank you. Department of Finance
22 supports the staff analysis on this test claim. We would
23 echo the staff's recommendation that this Family Code
24 Section 6228 does not, by its language, require the
25 preparation of this report. And we would also echo the

1 sentiments of the Commission staff that the Public Records
2 Act already required much of the claimed conduct, with the
3 exception of the storage item, for which reimbursement is
4 recommended.

5 The appellant case that was brought to our
6 attention today, Exhibit 7, I would have the Commission
7 note that this case has been accepted for review before the
8 California Supreme Court, and it's scheduled to be argued
9 May 6th of this year, which is in just a few days. So the
10 proposition for which it is cited is up for review before
11 the California Supreme Court.

12 CHAIR MIYASHIRO: Questions from the members?

13 MR. LAZAR: I just would like to have her comment
14 on Mr. Kaye's remarks.

15 MS. SHELTON: Well, first I would agree with Miss
16 Geanacou. The Commission is prohibited from relying on
17 this case by law. It is -- the Supreme Court did take
18 review of it, so you can't rely on the holding of the Third
19 District Court of Appeal in that case.

20 Any particular questions? Or you want me just to
21 go over the findings?

22 MR. LAZAR: One more time, please.

23 MS. SHELTON: Okay. We're recommending that the
24 Commission not find that it have jurisdiction over the
25 Penal Code Section as plead because of the two prior

1 Commission's decisions. The law states that administrative
2 agency, once the decision is finalized, does not have the
3 jurisdiction, unless you have an express statutory
4 authority to re-hear something. And the only statutory
5 authority you have to re-hear something is what we had on
6 the earlier item. Within 30 days you can get a request for
7 reconsideration on something. After that, you cannot
8 re-hear it. And then they have a statute of limitations to
9 court to appeal the Commission's decision, and that was not
10 done on those two earlier cases.

11 So we're recommending that you find -- don't find
12 jurisdiction over those two statutes as plead. The Family
13 Code section, it -- the plain language of the section
14 requires that the agency provide a copy of the domestic
15 violence incident report and the face sheet to the victim
16 upon request within a specified time period at no charge,
17 and then they keep those incident reports for five -- for a
18 periods of five years after they complete the report. The
19 claimant has asked for a number of activities applying to
20 the preparation of that report. And by the plain language
21 of that Family Code section, it doesn't require that agency
22 to prepare the report.

23 I do need to clarify something, though, because in
24 preparation for today's hearing, there was a lot of
25 decision, a lot of the claimants and their writings about

1 the suspension of the domestic violence incident report by
2 the Legislature. What was suspended was the 1984 statute.
3 And the Commission did also agree that the 1995 amendment
4 to the 1984 statute was optional, because it was the same
5 part of that report. But what has not been plead, and
6 there is no Commission decision, is on a 1993 amendment to
7 13730 -- if you turn to your yellow copy, it's actually in
8 the Commission's decision, on page ten. And it's indented
9 as a quote. And it notes that the Commission has never
10 made a test claim finding on the 1993 amendment. The 1993
11 amendment states by the plain language that all
12 domestic-violence-related calls for assistance shall be
13 supported with a written incident report as described in
14 Subdivision (c), and there's never been a test claim
15 finding on that, and that has not been the suspended.

16 So the preparation of the report is not mandated,
17 clearly, by the statutes that have been plead. Possibly
18 mandated, which is -- you know -- a subject of actually
19 another test claim, by this 1993 amendment, which is not
20 before the Commission today.

21 The activities of the providing and copying the
22 report already have been required by the California Public
23 Records Act. Under that, those provisions of law says an
24 agency has to provide copies of public records upon
25 request, and the courts have found that a domestic violence

1 instrument report is one section -- record that has to be
2 produced. And by the plain language of those sections, it
3 does say that victims of crime have -- are entitled to
4 receive information relating to a -- a domestic law
5 enforcement call, and arrest in a description of those
6 circumstances.

7 There is a difference between this program and the
8 Public Records Act. One, under the Public Records Act,
9 they are entitled to receive a fee, or charge a fee to
10 anybody requesting a public record. And under Family Code,
11 we have to give the victim a copy of the record free of
12 charge. We have had case law on that issue that when a --
13 when the State eliminates a fee authority, elimination of a
14 revenue source does not result in a reimbursable
15 State-mandated program, as we've referenced by the County
16 of Solano case. So they're not entitled to that loss of a
17 fee authority. The actual activities required by the
18 statute are that activities that's -- that are also
19 required by the California Public Records Act. So there's
20 nothing new as far as the activities are concerned.

21 So the only thing new we found was the actual
22 storage of the report for five years. And in prior law
23 there's not any State requirement relating to record
24 retention policies. And we are recommending that the
25 Commission approve reimbursement for that activity.

1 CHAIR MIYASHIRO: Any other questions of
2 Commission members?

3 I have a question. Mr. Kaye, if you might explain
4 your perspective on the jurisdiction of the Commission with
5 regard to 13730.

6 MR. KAYE: Well, I believe that the Commission has
7 sole and exclusive jurisdiction to determine whether a
8 statute is reimbursable. And I believe that Government
9 Code 17581, the Legislature has a preliminary authority to
10 determine that such acknowledged mandates are optional and
11 are not -- by placing a zero in the Budget Act -- Public
12 Budget Act, therefore making it optional.

13 What -- what we are here before you trying to
14 implore is that as we don't see -- we think it's factually
15 impossible to -- for the Legislature to give the victim of
16 domestic violence an unqualified right to receive the
17 report, and yet view that preparation of that report as
18 optional. We think that that is more than a legal
19 curiosity. We think that there is a second mandate that is
20 implied, and -- and that this second mandate is absolutely
21 reimbursable. And in this regard, again, we -- we are not
22 complaining. We are trying to explain.

23 But knowing that this would be a -- a very big
24 issue, and as I cited this Kern County case, the case that
25 you have before you, on March 10th, I wrote to the

1 Commission's Executive Director, indicating that perhaps
2 this matter might be postponed until the Supreme Court
3 reached a level of finality in this matter as to the -- the
4 whole issue of do we have any true choice in preparing
5 these reports. And again, respectfully I just inform you
6 that the Commission's Director informed us on March 13th
7 that such an extension of time was not to be granted.

8 So perhaps once the California Supreme Court does
9 decide one way or the other, it might be good at that time
10 to -- to make a decision. That's a -- merely a -- a
11 suggestion that I'm making to resolve these legal -- legal
12 complexities in a more absolute way.

13 Thank you.

14 CHAIR MIYASHIRO: You might ask that question of
15 the Department Finance. The -- the Legislature has
16 suspended this mandate for -- maybe I should ask the other
17 way.

18 Have local agencies received reimbursement for
19 this mandate, and that's the mandate with regard to
20 preparation of the report? And if not, could you clarify
21 the application of the suspension as I understand it, and
22 testify that it has been suspended? So would you clarify
23 how the suspension of the mandate worked with regard to Mr.
24 Leonard -- Mr. Kaye's assertion that the reports themselves
25 continue to be required?

1 MS. GEANACOU: Uh-huh. Mr. Miyashiro, I'm sure
2 before -- I don't know if they continue to be funded for
3 this duty that the claim is required. We don't have the
4 analyst on the assignment with us here today. So I don't
5 have that information.

6 CHAIR MIYASHIRO: Does our Chief of Staff note
7 whether that reimbursement has provided for the preparation
8 of the report?

9 MS. SHELTON: I can clarify on before for the 1984
10 decision or the 1984 statute as originally acted under the
11 parameters and guidelines for that program. The Commission
12 did authorize reimbursement to write the reports. The
13 decision was only on the 1984 statute. Subsequently, since
14 1992, the 1984 statute has been suspended and the new sheet
15 that I gave you identifies all the budget bills showing
16 that the 1984 statute has been suspended over the last four
17 years.

18 It's also proposed for suspension, I believe,
19 still, for the next fiscal year, even though, in the
20 parameters and guidelines the Commission, on the
21 reimbursement to write the reports they had to have
22 done, they did so under their authority to provide any
23 reasonable activity necessary to comply with the
24 ramifications. Because subsequently, in 1993, the
25 Legislature amended 13730. There has never been a mandate

1 finding on 13730 as amended in 1993. As amended in 1993,
2 it specifically requires that all calls of domestic
3 violence be recorded on an incident report form. That 1993
4 amendment cannot be suspended yet because there's been no
5 mandate determination.

6 If you look at the plain language of the
7 suspension statute, which is 17581, it requires first that
8 there be a mandate determination by either the Commission
9 or a Court of Appeal, and then a zero dollar provision by
10 the Legislature that specifically identifies the statute
11 that they are suspending.

12 So our recommendation on -- on the Family Code
13 section 6228 that it doesn't impose a reimbursable
14 State-mandated program to prepare is based on two things.
15 One, the plain language of that statute does not require
16 them to prepare it. And two, even if it did, it would not
17 be a new program or higher level of service, because
18 there's a preexisting study in law based on Penal Code
19 section 13730 as amended in 1993 for them to prepare a
20 domestic violence incident report for each call that they
21 make.

22 CHAIR MIYASHIRO: So the Department of Finance,
23 if -- if the information provided by Commission staff on
24 the suspension statutes '99 through 2002 are corrections,
25 then can I conclude that no reimbursement was provided for

1 the preparation of the incident report during those four
2 years?

3 MS. GEANACOU: During the period of the
4 suspension.

5 CHAIR MIYASHIRO: Assuming this is correct, and
6 it's been suspended pursuant to Chapters 505 -- 50216 and
7 379, am I correct in assuming -- concluding that no
8 reimbursement for preparation of incident reports has been
9 provided to local agencies?

10 MS. GEANACOU: I think that's a reasonable
11 assumption to make. But I can't testify to that being my
12 personal knowledge.

13 CHAIR MIYASHIRO: Okay. Any other questions?
14 No? So --

15 MR. SHERWOOD: I -- I wonder if we could go back
16 to what Mr. Kaye's comment was in his request he made.

17 CHAIR MIYASHIRO: Microphone.

18 MR. SHERWOOD: I think this one's burned out.

19 Paula, maybe you could address Mr. Kaye's request
20 that you have evidently rejected -- turned down to postpone
21 this item until after -- the Supreme Court decision on the
22 case is very relative to this, and many other issues,
23 actually. And what your thinking might have been in
24 turning that request down.

25 MS. HIGASHI: In the past, when cases have been

1 postponed or set aside due to pending litigation, they have
2 been cases that are related to actual challenges made to
3 the same statute and the same code section. For example,
4 binding arbitration test claim had been set aside for work
5 because of -- of the pending review by the courts. And
6 that decision was just reached by the Supreme Court because
7 that decision obviously had addressed direct -- directed
8 impacted on that determination, and it also happened at a
9 point in time when we had a case on, I think, abortion
10 counseling issues.

11 There was another case that went before the
12 courts, and that test claim was subsequently withdrawn and
13 dismissed. Here, the case on point was the School Site
14 Counseling Decision. It was not any of the -- it does did
15 not include any of the statutes that were included in this
16 test claim. If we were to begin that practice, virtually,
17 the Commission could stop meeting, because there's always
18 pending litigation. And if the Commission wishes to direct
19 me to change the approach that we've taking to these kinds
20 of requests, then we could study the issue and come back
21 with a new policy.

22 But up to now, that's what has transpired. And
23 Mr. Kaye had not filed a -- an appeal of my decision when I
24 denied that request to postpone the hearing.

25 MR. SHERWOOD: I just wanted to hear your

1 reasoning. Seems sounds in many ways. Sometimes, when
2 I -- when I hear that maybe the decision's only a month
3 down the road, and it's a general decision, not specific to
4 these statutes, it makes me wonder why we don't wait a
5 month, if that's the case. But it also seems to me that
6 these decisions at the court level can go on for a long
7 period of time, also, and we definitely don't want to
8 delay the whole process.

9 MS. HIGASHI: And that's the balancing we try to
10 do.

11 MR. SHERWOOD: That's what we do, is a balancing
12 act and a judgment decision.

13 MS. HIGASHI: That's correct. Because other test
14 claims that relate to the expulsion statutes, for example,
15 have been posted too. Because there's a statement of
16 expulsion that's pending that would affect all of those
17 other amendments to did same code sections.

18 MR. SHERWOOD: Thank you. The other issue I had
19 was the '93 code. Once again, to be more -- once again, to
20 repeat, that -- that -- the claim could be back and a claim
21 under the '93 amended code, if they wish to?

22 MS. HIGASHI: And in fact they have the -- there's
23 another test claim that is included in the '93 statute,
24 which the record on that is not closed yet. So it hasn't
25 reached staff, and it hasn't reached you yet. So I don't

1 know when that will occur. But there's -- there is a final
2 on it, but there's no determining about A commission on the
3 '93 statute.

4 MR. SHERWOOD: 13730 has been suspended the last
5 four years.

6 MS. HIGASHI: Actually, pretty much going all the
7 way back to 1992, it's been suspended, but definitely in
8 the last four years.

9 MR. SHERWOOD: Definitely last four years.

10 MS. HIGASHI: But there was a period of time when
11 there was some compensation.

12 MS. SHELTON: Yes. Well, I believe the
13 Commission's decision was issued in 1987.

14 MS. HIGASHI: Uh-huh.

15 MS. SHELTON: And I look for a date on the P's and
16 G's, but I don't remember when the reimburse -- they did
17 get reimbursed for a couple years, then it was suspended.
18 I think they actually lifted the suspension for a few of
19 those years in the '90s, and then we installed it back, you
20 know, put it back in. So it's been suspended since then.

21 MR. SHERWOOD: Thank you.

22 MS. HIGASHI: Mr. Sherwood, as a reference, you
23 might want to take a look at the supplemental to Exhibit C
24 on page two of this material. There's a -- the 3 bullets
25 at the bottom of the page that stated the conclusion. If

1 you'll note that, the conclusions are very carefully
2 drafted to conform with what had happened with the Budget
3 Act during the reimbursement period. So that there is
4 recognition for the fact that there -- there was a gap when
5 a budget had not been enacted, when a suspension had --
6 cannot be in effect.

7 MR. SHERWOOD: Right.

8 MS. HIGASHI: And that process would no longer
9 occur, because since this time, 17581 was amended to the
10 extent the suspension went into the period of time when the
11 budget was not.

12 MR. SHERWOOD: Yeah. Yeah. Thank you.

13 CHAIR MIYASHIRO: Are there questions from
14 members? I would entertain a motion.

15 MR. BARNES: Staff recommendation.

16 CHAIR MIYASHIRO: I have a motion to adopt. Do I
17 have a second?

18 MR. SHERWOOD: Second.

19 CHAIR MIYASHIRO: The motion is seconded. Any
20 further discussion?

21 Paula, please call roll.

22 MS. HIGASHI: Mr. Sherwood?

23 MR. SHERWOOD: Aye.

24 MS. HIGASHI: Ms. Williams?

25 MS. WILLIAMS: Aye.

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MS. HIGASHI: Mr. Barnes?

MR. BARNES: Aye.

MS. HIGASHI: Mr. Lazar?

MR. LAZAR: Aye.

MS. HIGASHI: Mr. Miyashiro?

CHAIR MIYASHIRO: Aye.

MR. KAYE: Thank you.

MS. HIGASHI: This now brings us up to Item 10.
Nancy Patton will present this item.

MS. PATTON: Good morning. At the March 27th, 2003 Commission hearing, Commission members requested that staff prepare an analysis of Assembly Bill 637. AB 637 would prohibit Commission -- the Commission on State Mandates' legal representation or appearances in any court action or proceeding involving CSM decisions; would add an alternate CSM member; would revise deadlines for planning reimbursement claims, and would modify all the State Mandates Apportionment System.

AB 637 passed on April 9th, 2003 with a vote of 9 to 0. It is currently pending in Assembly Appropriations Committee with no hearing date set. For your information, you will find the staff analysis of AB 637 and the Assembly Local Government Committee analysis and a copy of the bill in the binders under Item 10. Commission staff did forward this bill analysis to Appropriations Committee staff and

Commission on State Mandates

Original List Date: 5/18/2000
Last Updated: 4/17/2003
List Print Date: 05/16/2003
Claim Number: 99-TC-08
Issue: Crime Victims' Domestic Violence Incident Reports

Mailing Information: Proposed SOD

Mailing List

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