

Adopted: January 24, 2002

Statewide Cost Estimate

Penal Code Sections 2970, 2972, and 2972.1

As Added and Amended by Statutes of 1985, Chapter 1418;
Statutes of 1986, Chapter 858; Statutes of 1987, Chapter 687;
Statutes of 1988, Chapter 657; Statutes of 1988, Chapter 658;
Statutes of 1989, Chapter 228; Statutes of 1991, Chapter 435; and
Statutes of 2000, Chapter 324

Mentally Disordered Offenders' Extended Commitment Proceedings

Mandate Background

The test claim legislation establishes civil commitment procedures for the continued involuntary treatment of persons with severe mental disorders for one year following their parole termination date. These commitment procedures generally require the following:

- A civil hearing on the petition for continued involuntary treatment;
- The right to a jury trial, with a unanimous verdict by the jury before the offender can be committed;
- The appointment of defense counsel for indigent offenders; and
- Subsequent petitions and hearings regarding the recommitment of the offender for another year of involuntary treatment.

The County of Los Angeles filed the test claim on November 19, 1998. The Commission adopted the Statement of Decision on January 25, 2001, and the Parameters and Guidelines on May 24, 2001.

Costs incurred in implementing the provisions of Penal Code sections 2970 and 2972, as added and amended by Statutes of 1985, Chapter 1418; Statutes of 1986, Chapter 858; Statutes of 1987, Chapter 687; Statutes of 1988, Chapters 657 and 658; Statutes of 1989, Chapter 228; and Statutes of 1991, Chapter 435, after July 1, 1997 are eligible for reimbursement. Statutes of 2000, Chapter 324, was not in effect until January 1, 2000. Therefore, costs incurred pursuant to Penal Code section 2972.1, as added by Statutes of 2000, Chapter 324, regarding services to persons committed pursuant to Penal Code section 2972 who are on *outpatient* status, are reimbursable only on or after January 1, 2001.

Eligible Claimants

Any county or city and county which incurs increased costs as a result of this reimbursable state mandated program is eligible to claim reimbursement of those costs.

Reimbursable Activities

For each eligible claimant, the direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, travel, and training incurred for the following mandate components are reimbursable:

A. One-time Activities

1. To develop policies and procedures to implement Penal Code sections 2970, 2972, and 2972.1.
2. To train staff on the mandated program (one-time per employee).
3. To develop or procure computer software to track the status of persons committed pursuant to Penal Code section 2972.

B. Continuing Activities

The following reimbursable activities must be specifically identified to a mentally disordered offender:

1. Review the state's written evaluation and supporting affidavits to determine if the county concurs with the state's recommendation that the offender's severe mental disorder is not in remission or cannot be kept in remission without continued treatment (Pen. Code, § 2970). This activity includes the following:
 - a) Attorney, secretarial, and paralegal services;
 - b) Copying charges; and
 - c) Long distance telephone charges.
2. Prepare and file petitions with the superior court for the continued involuntary treatment of the offender (Pen. Code, § 2970). This activity includes the following:
 - a) Attorney, secretarial, and paralegal services;
 - b) Copying charges; and
 - c) Long distance telephone charges.
3. Represent the state and the indigent offender in civil hearings regarding recommitment (Pen. Code, §§ 2972, 2972.1). This activity includes the following:
 - a) Attorney, secretarial, and paralegal services;
 - b) Copying charges; and
 - c) Long distance telephone charges.
4. Retain necessary experts, investigators, and professionals to prepare for the civil trial and any subsequent petitions for recommitment;
5. Travel to and from state hospitals where detailed medical records and case files are maintained;
6. Provide transportation and custody of each potential mentally disordered offender before, during, and after the civil proceedings by the County's Sheriff Department;

7. Meet and confer on outpatient status reports issued pursuant to Penal Code section 2792.1 (c) and assist outpatient offenders committed pursuant to Penal Code section 2972 in completing a form indicating whether the offender agrees to continued treatment, or refuses continued treatment and demands a jury trial to decide the need for further treatment; and
8. Represent the state and the indigent offender in a jury trial to decide the need for further treatment and any subsequent petitions or hearings regarding recommitment (Pen. Code, §§ 2972, 2972.1). This activity includes the following:
 - a) Attorney, secretarial, and paralegal services;
 - b) Copying charges; and
 - c) Long distance telephone charges.

Assumptions

Staff made the following assumptions:

- The claiming data is accurate, although unaudited.
- There will not be any late claims filed.¹

Methodology

To arrive at the total statewide cost estimate:

- Staff used unaudited actual claim totals filed with the State Controller for prior fiscal years (FYs) by eligible claimants.²
- Staff projected totals for FY 2001-02 by multiplying the FY 2000-01 claim total filed by claimants with the State Controller's Office times the implicit price deflator for 2001-02 (2.7%), as forecasted by the Department of Finance. Staff projected totals for FY 2002-03 by multiplying the 2001-02 estimate by the implicit price deflator for 2002-03 (2.1%).

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$11,651,000 for costs incurred in complying with the *Mentally Disordered Offenders' Extended Commitment Proceedings* provisions.

¹ If the Legislature appropriates the amount of the statewide cost estimate and actual claims exceed this amount, the State Controller's Office will prorate the claims. If the deficiency funds are not appropriated in the Budget Act, the Controller will report this information to the legislative budget committees and the Commission on State Mandates. The Commission will then include the deficiency in its report to the Legislature in order to ensure that it is included in the next claims bill.

² State Controller's Office data as of December 27, 2001.

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

Fiscal year	# Claims Filed With SCO	Claim Totals
1997-98	10	\$1,333,842
1998-99	13	\$1,513,311
1999-00	17	\$2,027,164
2000-01	13	\$2,203,456
2001-02 (2.7% ³)	n/a	\$2,262,949
2002-03 (2.1% ⁴)	n/a	\$2,310,471
Total		\$11,651,193
Statewide Cost Estimate Total (Rounded)		\$11,651,000

Because the reported costs are prior to audit and partially based on estimates, the statewide cost estimate of \$11,651,193 has been rounded to \$11,651,000.

³ Implicit Price Deflator as forecast by Department of Finance.

⁴ *ibid.*