

**1. TEST CLAIM TITLE**

Amended Crime Statistic Reports for the  
Department of Justice

**2. CLAIMANT INFORMATION**

Sacramento County Sheriff/City of Newport Beach  
Name of Local Agency or School District

Nancy Gust/Glen Everroad  
Claimant Contact

Title

711 G street RM 405/3300 Newport Blvd

Street Address

Sacramento/Newport Beach CA 95814/92658

City, State, Zip

/949-644-3141

Telephone Number

/949-723-3544

Fax Number

/geverroad@city.newport-beach.ca.gov

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Allan Burdick  
Claimant Representative Name

Vice President

Title

MAXIMUS

Organization

4320 Auburn Blvd

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Sacramento, CA 95841

City, State, Zip

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allanburdick@maximus.com

E-Mail Address

*For CSM Use Only*

Filing Date:

**RECEIVED**

**MAR 27 2008**

**COMMISSION ON  
STATE MANDATES**

Test Claim #:

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

*Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.*

Chapter 1128, Statutes of 1955, Chapter 238, Statutes of 1965, Chapter 1916, Statutes of 1965; Chapter 1157, Statutes of 1967; Chapter 1203, Statutes of 1971, Chapter 1377, Statutes of 1972, Chapter 142, Statutes of 1973, Chapter 1212, Statutes of 1973; Chapter 255, Statutes of 1979; Chapter 860, Statutes of 1979; Chapter 1340, Statutes of 1980; Chapter 1609, Statutes of 1984; Chapter 1172, Statutes of 1989; Chapter 1338, Statutes of 1992; Chapter 1230, Statutes of 1993; Chapter 965, Statutes of 1995, Chapter 803, Statutes of 1995; Chapter 872, Statutes of 1996; Chapter 933, Statutes of 1998; Chapter 571, Statutes of 1999; Chapter 626, Statutes of 2000; Chapter 468, Statutes of 2001; Chapter 483, Statutes of 2001; Chapter 405, Statutes of 2004; Senate Resolution 64, Chapter 147, 1982; California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements, March 2000; and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements Spreadsheet, March 2000

*Copies of all statutes and executive orders cited are attached.*

Sections 5, 6, and 7 are attached as follows:

- 5. Written Narrative:** pages \_\_\_\_ to \_\_\_\_.
- 6. Declarations:** pages \_\_\_\_ to \_\_\_\_.
- 7. Documentation:** pages \_\_\_\_ to \_\_\_\_.

8. CLAIM CERTIFICATION

Read, sign, and date this section and insert at the end of the test claim submission.\*

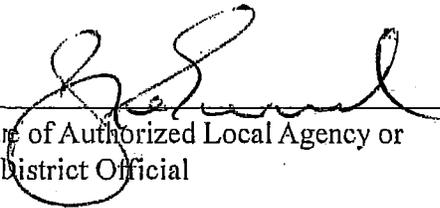
This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

GLEN EVERESAQ

Print or Type Name of Authorized Local Agency or School District Official

REVENUE MANAGER

Print or Type Title



Signature of Authorized Local Agency or School District Official

27 MAR '08

Date

\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.

8. CLAIM CERTIFICATION

Read, sign, and date this section and insert at the end of the test claim submission.\*

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

NANCY J GUST  
Print or Type Name of Authorized Local Agency  
or School District Official

ADMINISTRATIVE SERVICES  
Print or Type Title OFFICER II

  
Signature of Authorized Local Agency or  
School District Official

3/27/08  
Date

\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.

**BEFORE THE  
COMMISSION ON STATE MANDATES**

Amended  
Test Claim of:  
County of Sacramento  
and  
City of Newport Beach

Crime Statistic Reports for the Department of Justice

Chapter 1128, Statutes of 1955, Chapter 238, Statutes of 1965, Chapter 1916, Statutes of 1965; Chapter 1157, Statutes of 1967; Chapter 1203, Statutes of 1971, Chapter 1377, Statutes of 1972, Chapter 142, Statutes of 1973, Chapter 1212, Statutes of 1973; Chapter 255, Statutes of 1979; Chapter 860, Statutes of 1979; Chapter 1340, Statutes of 1980; Chapter 1609, Statutes of 1984; Chapter 1172, Statutes of 1989; Chapter 1338, Statutes of 1992; Chapter 1230, Statutes of 1993; Chapter 965, Statutes of 1995, Chapter 803, Statutes of 1995; Chapter 872, Statutes of 1996; Chapter 933, Statutes of 1998; Chapter 571, Statutes of 1999; Chapter 626, Statutes of 2000; Chapter 468, Statutes of 2001; Chapter 483, Statutes of 2001; Chapter 405, Statutes of 2004; Senate Resolution 64, Chapter 147, 1982; California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements, March 2000; and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements Spreadsheet, March 2000

STATEMENT OF THE CLAIM

A. MANDATE SUMMARY

Beginning in 1955, the Legislature, through enactments in the Penal Code, specifically §13010, set forth requirements that the Department of Justice (DOJ) must prepare statistical reports for review. Pursuant to Penal Code §§13020 and 13021, local law enforcement were required to comply with the DOJ and begin collecting statistical crime

data. Reports were then generated and submitted to the DOJ either monthly or annually depending on the nature of the information the report contained. At that time, only a few reports were required. In the late 1970's and through to present time, these reports have increased in number and complexity. Now, at least 10 types of reports are due monthly and three more due annually reporting on various issues such as homicide, domestic violence, citizen complaints, and hate crimes.

Section 13012 of the Penal Code, added in 1955, sets forth the required contents of an annual report by the DOJ. The DOJ, in turn requires all local agencies with police powers including sheriffs, police, District Attorneys and probation officers, to gather and to report general statistical information on all adult offenders annually. Chapter 1340, Statutes of 1980, added the requirement that local agencies report the number of citizens' complaints, the number of complaints that alleged criminal conduct, and the number of complaints within each category of crime. Chapter 803, Statutes of 1995, expanded the reporting to include all juvenile offenders. Finally Chapter 468, Statutes of 2001, added that the report on juveniles must include any administrative action taken by law enforcement or correctional agencies dealing with minors in the juvenile justice system where the minor had a criminal case either transferred to or initiated in adult criminal court. The DOJ requires report number CJSC 724 be filed annually.

Penal Code §13012 currently reads:

The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

- (a) The amount and the type of offenses known to public authorities.
- (b) The personal and social characteristics of criminals and delinquents.
- (c) The administrative actions taken by law enforcement, judicial, penal and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.
- (d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal and correctional agencies, , including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.
- (e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

Section 13014 of the Penal Code, added by Chapter 1338, Statutes of 1992, requires all local entities responsible for the investigation or prosecution of homicides submit a report to the DOJ containing victim and offender demographic information. The DOJ requires report number BCS 15 be submitted monthly.

Penal Code §13014 reads, in pertinent part:

(b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime including age, gender, race and ethnic background.

Section 13023 of the Penal Code, added by Chapter 1172, Statutes of 1989, requires local law enforcement agencies to report criminal acts or attempted criminal acts commonly referred to as hate crimes. The DOJ requires that sheriffs and police file its Agency Crime Report monthly and District attorneys file report number CJSC 5 on hate crime prosecution annually. Chapter 933, Statutes of 1998, expanded the parameters of a hate crime to include gender. Chapter 626, Statutes of 2001, further expanded the parameters to include national origin.

Penal Code §13023 currently reads:

Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be proscribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, national origin, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice

shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

Section 12025 of the Penal Code, added in 1953, makes carrying a concealed weapon a crime. This statute has been amended several times but most recently, Chapter 571, Statutes of 1999, added a reporting requirement for local District Attorneys for an annual report. The DOJ requires that report number CJSC 4 be submitted monthly.

Penal Code §12025 reads, in pertinent part:

(h)(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

Section 12031 of the Penal Code, added in 1967, makes carrying a loaded firearm a crime. This statute has been amended nearly every year but most recently, Chapter 571, Statutes of 1999, added a reporting requirement for local District Attorneys for an annual report. The DOJ requires that report number CJSC 4 be submitted monthly.

Penal Code §12031 reads, in pertinent part:

(m)(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

Section 13730 of the Penal Code, added by Chapter 1609, Statutes of 1984, requires that local law enforcement develop a system for recording all domestic violence-related calls. Chapter 1230, Statutes of 1993, amended the statute to require a written incident report. Chapter 965, Statutes of 1995, expanded the information be recorded to include whether the abuser was under the influence or if law enforcement had had prior calls to that same address with the same parties. Chapter 483, Statutes of 2001, further required a recordation of whether the officer at the scene had to inquire regarding the presence of firearms or other deadly weapon. The compiled information is required to be submitted in report number CJSC 715 to the DOJ monthly.

Penal Code §13730 currently reads:

(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 are involved. All domestic violence-related calls for assistance shall be supported by 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 call received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form 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. The report shall include at least all 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 had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

(3) A notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other person present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether the inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Section 12028.5.

Senate Resolution 64, Chapter 147, Statutes of 1982, requests local law enforcement to modify data gathering procedures to collect information on the number of victims of crime who are 60 years of age or older. The DOJ requires that reports concerning violent crime against senior citizens are submitted monthly report number BCS 727.

Although some of the legislation places the duty to report to the Legislature squarely on the shoulders of the State Department of Justice, the DOJ is quick to pass the brunt of this effort onto local agencies. The net effect of this legislation is to require local law enforcement to act as statisticians and data collectors for the state Department of Justice. Thus, the total costs of these claims are reimbursable.

The County of Sacramento and the City of Newport Beach do not have full estimates on the costs of this program, but same are substantially in excess of \$1000 per year for each agency.

#### LEGISLATIVE HISTORY PRIOR TO 1975

Prior to 1975, certain types of reports were required to be filed with the DOJ. These reports included information on arrests, arson, crimes and clearances, law enforcement personnel killed or assaulted, deaths of individuals while in custody, probation, and law enforcement and criminal justice personnel surveys.

There was no requirement prior to 1975, nor in any of the intervening years, until the passage of the aforementioned Chapters which mandated reports in other areas. These Chapters created an expanded list of reporting requirements including information on domestic violence, homicide, hate crimes, concealed weapons, loaded firearms, violent crimes against senior citizens and citizens' complaints.

#### C. SPECIFIC STATUTORY SECTIONS THAT CONTAIN THE MANDATED ACTIVITIES

As related above, the mandated activities are contained in Penal Code §§13012, 13014, 13023, 12025, 12031, and 13730. These sections directly relate to the reimbursable provisions of this test claim.

#### D. COST ESTIMATES

The County of Sacramento and the City of Newport Beach do not have full estimates on the costs of this program, but same are substantially in excess of \$1000 per year for each agency.

#### E. REIMBURSABLE COSTS MANDATED BY THE STATE

The costs incurred by County of Sacramento as a result of the statute on which this test claim is based are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B (6) of the California Constitution, and Government Code §17500 *et seq.* of the Government Code. Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975."
3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

#### F. MANDATE MEETS BOTH SUPREME COURT TESTS

The mandate created by this statute clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

##### Mandate Is Unique to Local Government

Only local government employs law enforcement. Thus, this requirement is unique to government.

##### Mandate Carries Out a State Policy

From the legislation, it is clear that the Legislature wishes to avail itself of a collection of crime statistics. These statistics are not only for the use of the Legislature but also for use by state agencies for reports and implementation of policy regarding the prevention of crime and delinquency.

In summary, the statutes mandates that the County of Sacramento bear the burden of obtaining the necessary information, distilling that information into reports and submitting same to the DOJ mostly on a monthly basis. The County of Sacramento believes that the additional reporting requirements satisfies the constitutional requirements for a mandate.

#### STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in Government Code §17556 which could serve to bar recovery of "costs mandated by the State", as defined in Government Code §17556. None of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the Program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.
2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.
6. The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election.
7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

None of the above disclaimers have any application to the test claim herein stated by the County of Sacramento.

## CONCLUSION

The enactment of Chapter 1340, Statutes of 1980; Chapter 803, Statutes of 1995; Chapter 468, Statutes of 2001; Chapter 1338, Statutes of 1992; Chapter 1609, Statutes of 1984; Chapter 1230, Statutes of 1993; Chapter 965, Statutes of 1995; Chapter 483, Statutes of 2001; Chapter 1172, Statutes of 1989; Chapter 933, Statutes of 1998; Chapter 626, Statutes of 2000; Chapter 571, Statutes of 1999 and Senate Resolution 64, Chapter 147, 1982 imposed a new state mandated program and cost on the County of Sacramento by requiring additional reports be submitted generally on a monthly basis to the DOJ. To create such reports, local law informant is placed in the position of having to compile various data and complete a laundry list of reports, each with a specific timeline for submission. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the so-called

disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement have any application to this claim.

MAILED:  FAXED: \_\_\_\_\_  
DATE: 4/4/08 INITIAL LD  
CHRON:  FILE:   
WORKING BINDER: \_\_\_\_\_