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Received
March 26, 2013
Commission on
State Mandates

March 25, 2013

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

RE: Sexually Violent Predators Mandate Redetermination Request

Dear Ms. Halsey,

The County of San Bernardino opposes the California Department of Finance's request to adopt a new test claim to find that costs associated with the sexually violent predator (SVP) mandate (Welfare and Institutions Code section 6001 through 6604) are no longer state reimbursable activities.

The County of San Bernardino disagrees with the Department of Finance's conclusion that the 2006 passage of Proposition 83—Jessica's Law—ends the state's obligation to reimburse local governments. The application of Government Code Section 17556 (f) to Proposition 83 in order to terminate state reimbursement of mandated sexually violent predators is legally incorrect. Under the California Constitution, Article 13 B, Section 6, the state shall provide a subvention of funds to reimburse local governments for the costs of a program or increased level of service mandated by the Legislature or a state agency.

The Department of Finance's flawed interpretation of the "expressly included" language of Government Code Section 17556(f) fails to consider whether the ballot language intended to enact or change the state reimbursement of mandated activities. This reading would give current Government Code Section 17556(f) the same legal effect as the "expressly included" language in California School Boards Assn. v. State of California, which the court of appeal found overbroad and unconstitutional.

Under Prop 83, textual changes to the Sexually Violent Predator Act include procedural changes to expand the class of felons eligible to be declared sexually violent predators, extension of the period of commitment between hearings, and changing the court procedures for hearings and trials. The statutory changes in the initiative did not relieve counties of their preexisting state mandated activities per Welfare and Institutions Code section 6001 through 6604.

For these reasons, the County of San Bernardino in partnership with our District Attorney respectfully urges the Commission on State Mandates to determine there is no valid legal basis to adopt the application for a new test claim regarding sexually violent predator activity. If you have any questions, please contact Josh Candelaria, Director of Governmental and Legislative Affairs, at (909) 387-4281.

Sincerely,

JANICE RUTHERFORD
Board of Supervisors Chair
Second District Supervisor
County of San Bernardino

The mission of the government of the County of San Bernardino is to satisfy its customers by providing service that promotes the health, safety, well being, and quality of life of its residents according to the County Charter, general laws, and the will of the people it serves.