

**ITEM 11**  
**FINAL STAFF ANALYSIS**  
**PROPOSED PARAMETERS AND GUIDELINES**

Penal Code Sections 264.2 and 13701

Statutes 1998, Chapters 698 and 702

*Domestic Violence Arrests and Victim Assistance (98-TC-14)*

County of Los Angeles, Claimant

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## ITEM 11

### FINAL STAFF ANALYSIS PROPOSED PARAMETERS AND GUIDELINES

Penal Code Sections 264.2 and 13701

Statutes 1998, Chapters 698 and 702

*Domestic Violence Arrests and Victim Assistance (98-TC-14)*

County of Los Angeles, Claimant

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### EXECUTIVE SUMMARY

#### Summary of the Mandate

On December 9, 2004, the Commission on State Mandates (Commission) adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (Pen. Code, § 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Pen. Code, §§ 243, subd. (e), & 273.5) to those for which a victim card is given out (Pen. Code, § 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).

## **Discussion**

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

A draft staff analysis was issued on August 31, 2006. The claimant and Department of Finance (DOF) submitted comments on September 15, 2006, and September 28, 2006, respectively. Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines.

### ***II. Eligible Claimants***

Staff modified this section such that only local agencies are eligible claimants, consistent with the Statement of Decision.

### ***IV. Reimbursable Activities***

The claimant's proposed reimbursable activities mirrored those in the Commission's Statement of Decision, with the addition of the activity to add specific information to the domestic violence response policy pursuant to Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D). However, the Statement of Decision specifically found that reimbursement was not required for Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D). Therefore, consistent with the Statement of Decision, staff did not include the additional ongoing activity of adding victim assistance information and information about the victims' compensation program to the domestic violence response policy, as proposed by the claimant.

Staff found that obtaining the victim card, giving the card to the victim, explaining what is on the card, addressing the victim's questions, and obtaining an interpreter (if necessary) are reasonable methods of complying with the mandate. Therefore, under the ongoing activity to provide victim cards to victims, staff listed the specific reimbursable actions. However, an officer's time for investigating and arresting the accused is not reimbursable.

In its comments to the draft staff analysis, the claimant requested that specific time study language be included in this section. The claimant believes that time studies are an alternate way of developing unit costs and is currently carrying out a time study for this purpose. Staff included the time study language accordingly.

### ***V. Claim Preparation and Submission***

The claimant proposed reasonable reimbursement methodologies for the proposed reimbursable activities. However, staff finds that the evidence in the record does not demonstrate that the proposed reasonable reimbursement methodologies meet the conditions required by Government Code section 17518.5. Therefore, staff recommends the actual cost methodology for this program. DOF supports this recommendation.

Staff notes that the direct cost elements for travel and training were not included because training is not a reimbursable activity and travel costs should not be incurred.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed parameters and guidelines for the *Domestic Violence Arrests and Victim Assistance* program, beginning on page 11. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

## STAFF ANALYSIS

### Claimant

County of Los Angeles

### Chronology

12/09/04 Commission on State Mandates (Commission) adopted Statement of Decision  
01/07/05 Claimant submitted proposed parameters and guidelines  
03/01/05 The State Controller's Office (SCO) submitted comments  
01/27/06 Commission staff requested the claimant to justify its proposed reasonable reimbursement methodology  
03/15/06 Claimant requested a pre-hearing conference  
04/04/06 Claimant submitted declarations to support its proposed reasonable reimbursement methodology  
04/25/06 Commission staff convened a pre-hearing conference  
08/31/06 Commission issued a draft staff analysis  
09/15/06 Claimant submitted comments on the draft staff analysis  
09/28/06 The Department of Finance (DOF) submitted comments  
10/06/06 Commission issued final staff analysis

### Summary of the Mandate

On December 9, 2004, the Commission on adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (Pen. Code, § 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Pen. Code, §§ 243, subd. (e), & 273.5) to those for which a victim card is given out (Pen. Code, § 13701, subd. (c)(9)(H)).

- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).

### Discussion

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

A draft staff analysis was issued on August 31, 2006. The claimant submitted comments on September 15, 2006. The DOF submitted comments on September 28, 2006. Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines.

### II. Eligible Claimants

The claimant proposed that eligible claimants include any city, county, city and county, school district, or community college district. However, as the SCO correctly commented, the Statement of Decision specifically states that this is a mandated program on local agencies only. Staff modified this section accordingly.

### IV. Reimbursable Activities

#### Claimant's Proposed Activities

The claimant's proposed reimbursable activities mirrored those in the Commission's Statement of Decision, with the addition of the following ongoing activity:

When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services (5) under Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) as underlined below is reimbursable:

- (subd. (c)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."
- (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, 'For information about the California victims' compensation program, you may contact 1-800-777-9229.'"

The SCO suggested that these activities not be included in the parameters and guidelines.

Staff notes the Commission's finding that for years in which Statutes 1984, chapter 1609 is not suspended in the budget act, the one-time activity of adding the following information to the domestic violence response policy is a mandated new program or higher level of service:

- Victim assistance provisions: "transportation to a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence." (Pen. Code, § 13701, subd. (c)(7).)

- Victim notice: "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229." (Pen. Code, § 13701, subd. (c)(9)(D).)

However, the Statement of Decision specifically states that:

Except for fiscal year 2003-2004, the underlying program has been suspended by the Legislature since the effective date of the test claim statute. According to a declaration provided by the claimant, the claimant incurred costs for this one-time activity between January 1, 1999, and June 30, 1999, when the suspension was in effect and the state did not mandate the activities. [Fn. Omitted.] Therefore, there is no evidence in the record that the activity of adding victim assistance information and information about the victims compensation program, as required by Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D), to the domestic violence response policy resulted in "costs mandated by the state," within the meaning of Government Code section 17514, to the claimant or any other local agency. **Therefore, reimbursement is not required for Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D).** [Emphasis added.]

Thus, staff did not include the additional ongoing activity proposed by the claimant.

#### Providing the Victim Card to Victims

In its proposed reimbursement methodology submitted in April 2006, the claimant states the following activities are in its 'Protocol' for delivering the victim card:<sup>1</sup>

1. The deputy shall obtain the card. The card is usually kept in the deputy's patrol bag which is stored in the trunk of the deputy's patrol vehicle.
2. [Procedures concerning obtaining a file number and entering data.]
3. When handing the victim the card, the deputy must explain what the card is and how to use it.
  - The deputy must obtain the victim's attention. This is not an easy task. Given the emotional nature of the situation, the victim is usually upset and has difficulty concentrating and/or calming down. If there is an arrest of the batterer or other type of action, this may divert the victim's attention further extending the period of time to explain the card to the victim.
  - The deputy will explain what is on the card (the phone numbers and the file number) and how the victim could use the card. One way to ensure that the victim is absorbing the information is to have the victim repeat what the deputy has just said.
  - The deputy must be sympathetic, understanding, and not rush the explanation as this will cause the victim to not understand the card and/or forget about the card altogether.

<sup>1</sup> See Declaration of Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison, Sheriff's Department, County of Los Angeles, Exhibit F, pages 181-186. The declaration states, "I declare that it is my information and belief that based on my experience, education, and training that the minimum time to perform the necessary activities, identified in the protocol, attached as Exhibit A, is 10 minutes."

- If the deputy is sympathetic, understanding, and explains the card in a slow and concise manner, the victim may not remember everything the deputy said, but they should remember that the card is available.
4. Common questions which the deputy must be prepared to address are: [questions about the shelter and incarceration of the accused are listed].
  5. Victims who are deaf, blind, or speak certain languages may require information concerning disability-specific shelters or language-specific shelters such as Spanish, Cantonese, and Mandarin.
    - The officer, in these cases, helps direct these victims to the most appropriate shelter.
    - The officer, in these cases, uses an interpreter at the scene to communicate with the victim whether it is a language or special needs such as deafness.
    - If the officer does not speak the victim's language, a fellow deputy, a non-interested party, or a Watch Desk is contacted and an interpreter is used via the phone on a three or four way call. Family members are not used to interpret for the officer.

The issue is whether the activities in this 'Protocol' are "the most reasonable method of complying with the mandate."<sup>2</sup>

As stated in the Assembly Floor Analysis of the test claim legislation (Stats. 1998, ch. 698): "According to the author, 'AB 1201 intends to provide victims of domestic violence the same information on access to counseling and services as is provided in current law for victims of rape and sexual assault.'"<sup>3</sup> Thus, the legislative intent was to give domestic violence victims the access to services that the law affords to rape and sexual assault victims. Therefore, it is instructive to analyze the parameters and guidelines for the *Rape Victims Counseling Center Notice* test claim (CSM-4426), which reimburses the activity of distributing victim cards to rape and sexual assault victims.

Parameters and guidelines for CSM-4426 were adopted on May 26, 1994, and amended on December 19, 1996. Under "Reimbursable Continuing Costs," paragraph B. 2 (b), the following activities are eligible for reimbursement:

Law enforcement's road officer, clerical, and dispatcher costs required to: request each victim's consent to notify a rape counseling center, each time alleged violation(s) include at least one violation of Penal code section 261, 261.5, 262, 286, 288a, 289, alleged separately or in combination with other violations; furnish a rape victim with a "Victims of Domestic Violence" card; record, file, and/or data-process state mandated information; and, provide hospital verification whether the local rape victim counseling center has been notified, upon the consent of the victim. [Emphasis added.]

<sup>2</sup> California Code of Regulations, title 2, section 1183.12, subdivision (b)(2).

<sup>3</sup> Assembly Floor Analysis, Concurrence in Senate Amendments, Assembly Bill No. 1201 (1997-1998 Reg. Sess.) as amended July 30, 1998, page 2.

Under the heading, "Claim Preparation and Submission," the parameters and guidelines state:

One-time costs and continuing costs that are reimbursable are limited to: A. Employee Salaries and Benefits ...

2. For continuing costs, excluding reprinting costs described in part V, paragraph B, 2 (a), unit costs must be claimed for each specified victim based on the following standard time:

- (a) 10 minutes – road officer's time related to the subject state mandates
- (b) 4 minutes – clerical's duties related to recording, filing, and/or data-processing
- (c) 2 minutes – dispatcher's time related to hospital verification<sup>[4]</sup>

Although the road officer's reimbursable duties are not stated in the parameters and guidelines, they can be deduced by eliminating the enumerated clerical and dispatcher duties. Thus, the road officer is responsible for (1) requesting victim's consent to notify a rape counseling center, and (2) furnishing the victim with a victim card.

Because the Legislature intended to provide the same level of service to domestic violence victims as to rape victims, the reimbursable activities for rape victims are substantially the same as the activity at issue, which is to "provide victim cards to victims of the following crimes..."<sup>5</sup>

More than delivering a victim card, the test claim statute's legislative intent was to convey information and provide access to services.<sup>6</sup> Thus, explaining the victim card and answering the victim's questions related to it realizes the intent of the test claim legislation.

Staff finds that the following activities from the 'Protocol' are reasonable methods of complying with the mandate, and therefore, staff added them under the ongoing activity to provide victim cards to victims:

- obtaining the card;
- giving the card to the victim;

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<sup>4</sup> The executive summary of the proposed amended parameters and guidelines, adopted in December 1996, states: "Commission staff requested documentary evidence from interested parties identifying necessary revisions to the standard times. Responses received from Department of Finance and San Bernardino County agreed with continued usage of current standard times. Mr. David Wellhouse, Wellhouse and Associates, verbally responded that smaller jurisdictions do not keep an accounting of actual time in order to furnish documentary evidence; therefore, none were forthcoming at this time. Consequently, staff recommends that the existing standard times remain in effect."

<sup>5</sup> Domestic Violence Arrests and Victim Assistance Statement of Decision (98-TC-14), adopted December 9, 2004, page 26.

<sup>6</sup> According to the Assembly Floor Analysis, *supra*, "AB 1201 intends to provide victims of domestic violence the same information on access to counseling and services as is provided in current law for victims of rape and sexual assault. Abusive behavior arises out of relationships and domestic violence can devastate the lives of victims. These victims deserve access to counseling and services that helps them put their lives back together or take steps to protect themselves. [¶]...[¶] It makes common sense to provide victims access to counseling services before an abusive relationship leads to rape or other violent crimes."



- explaining to the victim what the card is and how the victim could use the card;
- addressing questions about the card and shelters; and
- if necessary, providing an interpreter at the scene to communicate with the victim.

An officer's time for investigating and arresting the accused is not reimbursable.

Time Study Language

In its comments to the draft staff analysis, the claimant requested that the following language be included in this section:

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The SCO has a pending request for time study language to be included in all parameters and guidelines. The claimant believes that time studies are an alternate way of developing unit costs and is currently carrying out a time study for this purpose. Therefore, staff included the time study language.

***V. Claim Preparation and Submission***

Reasonable Reimbursement Methodology for One-Time Activities

Under this section, the claimant proposed the following reasonable reimbursement methodology for the proposed one-time activities:

- a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

Government Code section 17518.5, subdivision (a), states:

"Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:

- (1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.
- (2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

The SCO commented that the claimant did not substantiate its proposal. Accordingly, on January 27, 2006, Commission staff issued a letter requesting the claimant to submit written

evidence to justify its proposal and demonstrate that it is representative of all counties in the state. On April 4, 2006, the claimant submitted two declarations from the county's Sheriff's Department to support its proposal.

Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison for the Sheriff's Department in the County of Los Angeles declared the following:

...that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to verify each facility and phone number to ensure that the shelter is open and the phone number is still good.

...that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to find out if additional shelters have opened since the last update of the card.

...that it is my information and belief that based on my experience, education, and training that the time necessary to add the statements in the response policy as set forth in Penal Code section 13701 (c)(7) is two hours.

...that it is my information and belief that based on my experience, education, and training that the time necessary to add the contact information to the response policy as set forth in Penal Code section 13701 (c)(9)(D) is four hours.

...that it is my information and belief that based on my experience, education, and training that the time necessary to amend the victim card provision in the response policy and revise the cards for reprinting as set forth in Penal Code section 13701 (c)(9)(H) is three hours.<sup>7</sup>

Glen Dragovich, Assistant Division Director of Administrative Services for the Sheriff's Department in the County of Los Angeles declared:

...that it is my information and belief that one-time reimbursable cost of \$600 will be incurred to:

Revise and print victim cards to add the following new information:  
(1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.  
(Section 13701, subd. (c)(9)(H)(i) & (iv)).

...that it is my information and belief that one-time reimbursable costs of \$300 will be incurred to add statements in the response policy.<sup>8</sup>

The declarations submitted by the claimant to justify its proposal were provided by individuals employed by the Sheriff's Department in the County of Los Angeles. Staff finds that the declarations do not demonstrate that the proposed reasonable reimbursement methodology meets the conditions required by Government Code section 17518.5, because there is no evidence in the record that the proposed amount is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for 50 percent or more of eligible local agencies.

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<sup>7</sup> Exhibit F, page 182.

<sup>8</sup> Exhibit F, page 188.

Therefore, based on the evidence in the record, staff recommends the actual cost methodology for the three one-time activities.

#### Reasonable Reimbursement Methodology for Ongoing Activity

Government Code section 17518.5 states that a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state. Here, the claimant proposed a unit time of 10 minutes per incident for the ongoing activity of providing victim cards to specified victims. In its comments dated April 4, 2006, the claimant argued that: "...the standard time of 10 minutes for a road officer to provide the required services...is the same as the established standard time used in the current parameters and guidelines...for the Rape Victim Counseling Center Notice program...[Fn. Omitted]."

The proposed unit time must satisfy the conditions in Government Code section 17518.5, subdivision (a). Thus, the issue is whether 10 minutes represents an appropriate reasonable reimbursement methodology under Government Code section 17518.5.

Staff acknowledges that the *Rape Victim Counseling Center Notice* program includes a unit time of 10 minutes for a road officer's time to: 1) request the victim's consent to notify a rape counseling center, and 2) furnish the victim with a victim card. However, there is now an intervening statute in Government Code section 17518.5, which was not in effect at the time the parameters and guidelines for the *Rape Victim Counseling Center Notice* program was adopted in 1996. Thus, staff finds that the declarations do not demonstrate that the proposed unit time of 10 minutes meets the conditions required by Government Code section 17518.5, because there is no evidence in the record that the proposed amount is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for 50 percent or more of eligible local agencies.

Therefore, based on the evidence in the record, staff recommends the actual cost methodology for the ongoing activity.

In its comments dated September 26, 2006, DOF supported the staff recommendation for reimbursement based on actual costs. DOF also stated that:

In the interest of streamlining the claims process, we plan to review submitted claims on an ongoing basis and may, at a later date, propose amendments to the adopted parameters and guidelines that may include the use of a reasonable reimbursement methodology.<sup>9</sup>

#### Direct Cost Reporting

Direct cost elements must be identified for each reimbursable activity identified in Section IV. of the parameters and guidelines. However, staff notes that the cost elements for travel and training were not included because training is not a reimbursable activity and travel costs should not be incurred.

#### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed parameters and guidelines for the *Domestic Violence Arrests and Victim Assistance* program, beginning on page 11. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

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<sup>9</sup> Exhibit I.

## PROPOSED PARAMETERS AND GUIDELINES

Penal Code Sections 264.2, ~~13519~~, and 13701

Statutes of 1998, Chapters 698, ~~701~~, and 702

### *Domestic Violence Arrests and Victim Assistance (98-TC-14)*

County of Los Angeles, Claimant

#### I. SUMMARY OF THE MANDATE

On December 9, 2004, the Commission on State Mandates (Commission) decided that adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Statutes of 1998, Chapter ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Statutes of 1998, Chapter ch. 698), impose a reimbursable state-mandated program upon local governments agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out (Section 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

If the Legislature does not suspend the Domestic Violence mandate program (CSM-4222, Statutes of 1984, Chapter 1609), the activities, underlined below, pursuant to Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) are reimbursable:

•(subd. (e)(7)): ~~Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal and assistance in safe passage out of the victim's residence."~~

•(subd. (e)(9)(D)): ~~Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""~~

## II. ELIGIBLE CLAIMANTS

The eligible claimants are any county, city, city and county, school district, or community college district. Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

## III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (c), as amended by Statutes 1998, chapter 681, states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The County of Los Angeles filed the subject test claim to recover law enforcement agency 'costs mandated by the State', as defined by Government Code Section 17514, was filed by the County of Los Angeles on May 21, 1999, and would have permitted the recovery of costs effective on and after July 1, 1997 had the test claim legislation been effective on that date establishing eligibility for fiscal year 1997-1998. However, the effective and operative date of the test claim legislation (Chapter 698, Statutes of 1998 as joined with Chapter 701, Statutes of 1998 and Chapter 702, Statutes of 1998) was enacted on September 22, 1998 and became effective on is January 1, 1999. Accordingly, reimbursement for local law enforcement costs begins on the test claim legislation's effective date of costs incurred for compliance with Penal Code sections 264.2 and 13701, as amended by Statutes 1998, chapters 698 and 702, are reimbursable on or after January 1, 1999, as this date is within the period specified in Government Code section 17557.~~

~~Actual costs, including those costs deemed to be actual costs under Government Code section 17518.5, for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year's costs shall be submitted to the State Controller within 120 days of notification by the State Controller of the issuance date of for the claiming instructions.~~

~~If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

~~There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.~~

## IV. REIMBURSABLE ACTIVITIES

~~To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Supporting documents may include, but are not limited to, employee time records or time logs, sign in~~

sheets, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

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

A. One-time Activities

1. ~~The one-time cost of p~~Printing victim cards to add the following new information: ~~(1~~
  - a) phone numbers and/or local county hotlines of battered-women shelters; and ~~(2~~
  - b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).~~
2. ~~The one-time cost of a~~Adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)).~~
3. ~~The one-time cost of a~~Adding the following to the description of the victim card in the domestic violence response policy: ~~(1a~~ phone numbers and/or local county hotlines of battered-women shelters; and ~~(2b~~ a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).~~

B. Continuing Ongoing Activities

1. Providing victim cards to victims for the following crimes (Pen. Code, § 264.2, subd. (a)): ~~(1a~~ Penal eCode section 243, subdivision (e), - battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and ~~b~~ Penal Code section 273.5, - willful infliction of

corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (~~section 264.2, subd. (a)~~).

Providing victim cards to victims include the following reimbursable activities:

- a. Obtaining the card.
- b. Giving the card to the victim.
- c. Explaining to the victim what the card is and how the victim could use the card.
- d. Addressing questions about the card and shelters.
- e. If necessary, providing an interpreter at the scene to communicate with the victim.

An officer's time for investigating and arresting the accused is not reimbursable.

2. ~~When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services (5) under Penal Code section 13701, subd. (e)(7) and Penal Code section 13701, subd. (e)(9)(D) as underlined below is reimbursable:~~

~~a. (subd. (e)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."~~

~~b. (subd. (e)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""~~

## V. CLAIM PREPARATION AND SUBMISSION

~~Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate.~~

1. ~~The following requirements govern claiming costs under the "reasonable reimbursement methodology" pursuant to Government Code Section 17518.5.~~

### One-time Costs

~~A claimant may elect either to claim actual one-time printing, policy and related costs, as provided herein, or claim such one-time costs using a uniform cost allowance:~~

- a. ~~\$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).~~
- b. ~~\$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim;~~

including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).

- e. ~~\$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).~~

### Continuing Costs

A claimant may elect either to claim actual continuing costs, as provided herein, or claim such continuing costs using a standard time. Unit costs must be claimed for each specified victim, based on a standard time of 10 minutes of a road officer's time—the time required to provide victim cards to victims for the following crimes:

- (a) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship
- (b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).

The standard time of 10 minutes is multiplied by the road officers' average productive hourly rate, including applicable indirect costs as specified in the attached Ps&Gs, and then multiplied by the total number of reported incidents regarding alleged violations (Penal Code section 243(e) and 273.5).

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

#### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

##### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

##### 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.



### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

## B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

~~2. The following requirements govern claiming costs under the actual cost methodology:~~

~~A. Salaries and Benefits~~

~~Claimed reimbursement for employee costs should be supported by name, position, productive hourly rate, hours worked, fringe benefits amount and a brief description for the assigned unit and function relative to the mandate.~~

~~The source documents required to be maintained, by the claimant may include, but are not limited to, employee timecards and/or cost allocation reports.~~

~~B. Materials and Supplies~~

~~Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.~~

~~The source documents required to be maintained by the claimant may include, but are not limited to, invoices, lease documentation and other documents evidencing the validity of the expenditure.~~

~~C. Contracted Services~~

~~List costs incurred for contract services, including legal counsel for the development and operation of the mandated program and indirect costs, computed in accordance with OMB A-87 as described in Section V.G. [below], for administration of reimbursable contract[s]. Use of contract services must be justified by the claimant.~~

~~Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and invoices with the claim and a description of the contract scope of services.~~

~~D. Fixed Assets and Equipment~~

~~Report, the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes~~

other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

The source documents required to be maintained by the claimant may include, but are not limited to, contracts, charges, invoices, and statements.

#### **E. Travel**

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element V.A Salaries and Benefits, for each applicable reimbursable activity.

#### **F. Training**

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element V.A., Salaries and Benefits, and V.B., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element V.C., Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.

#### **G. Indirect Cost Rates**

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include (1) the overhead costs of the unit performing the mandate or (2) the indirect costs of administering reimbursable contract(s), or (3) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of labor, excluding fringe benefits, or, where applicable, 10% of the amount of reimbursable contract(s), if 50% or more of all reimbursable services are provided under contract, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B).

## VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## VII. OFFSETTING REVENUES SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds and other state funds, shall be identified and deducted from this claim.

## VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform ~~with the statute or executive order creating the mandate and~~ to the parameters and guidelines ~~adopted by the Commission,~~ the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to ~~the statute or executive order creating the mandate and~~ the parameters and guidelines ~~adopted~~ as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

**X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

**PAGES 21-100 LEFT BLANK INTENTIONALLY**

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Sections 264.2, 13519 and  
13701; Statutes 1998, Chapters 698, 701 and  
702

Filed on May 21, 1999

By County of Los Angeles, Claimant

No. 98-TC-14

*Domestic Violence Arrests and Victim Assistance*

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

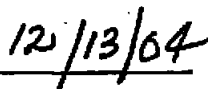
*(Adopted on December 9, 2004)*

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the  
above-entitled matter.



PAULA HIGASHI, Executive Director



Date





BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

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

*(Adopted on December 9, 2004)*

**STATEMENT OF DECISION**

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on December 9, 2004. Leonard Kaye appeared on behalf of the claimant, County of Los Angeles. Susan Geanacou and Brendan Murphy appeared on behalf of the Department of Finance (DOF).

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 at the hearing by a vote of 5-0.

**BACKGROUND**

A. Test Claim Legislation

In 1998, the Legislature enacted the test claim legislation to amend three Penal Code sections that address domestic violence. Section 264.2<sup>2</sup> requires law enforcement officers who investigate and assist victims of specified sex crimes to, among other things, give the victim a victim of domestic violence card. The test claim statute adds two crimes for which a victim card is given. The new groups to receive a card are victims of spousal battery, and victims of corporal injury on a spouse or other specified victim.

Section 13519<sup>3</sup> requires the Commission on Peace Officer Standards and Training (POST) to implement a domestic violence basic training course and response guidelines with content as

<sup>1</sup> Statutory references are to the Penal Code unless otherwise indicated.

<sup>2</sup> Section 264.2 was amended by Statutes 1998, chapter 698 (see §§ 1.5 & 4 of ch. 698).

<sup>3</sup> Section 13519 was amended by Statutes 1998, chapter 701.

specified.<sup>4</sup> The test claim statute adds subdivision (c)(5), "[t]he signs of domestic violence" to the course content and response guidelines. Section 13519, subdivision (e), also requires supplementary training as prescribed and certified by POST. Subdivision (g) requires nonsupervisory officers who are "assigned to patrol duties and would normally respond to domestic violence calls"<sup>5</sup> to complete, every two years, an updated domestic violence course that includes the specified content of the response guidelines and basic training course.

Section 13701,<sup>6</sup> which contains the policies and standards for officers' responses to domestic violence calls, was amended by Statutes 1998, chapter 702.<sup>7</sup> Chapter 702 amends the policies and standards for assisting domestic violence victims at the scene and the information given to the victim. Specifically, it adds to law enforcement's domestic violence policy: (1) transportation to a hospital and safe passage out of the victim's residence, and (2) contact information for the California victims' compensation program. It also adds two provisions to the content of the victim card: (1) phone numbers or county hotlines for local battered-women shelters, and (2) a statement that domestic violence or assault by a person known to the victim, including domestic violence or assault by the victim's spouse, is a crime. Further, the test claim statute amends subdivision (b) of section 13701 by adding orders issued by other states, tribes or territories to the list of enforceable protective orders in the domestic violence arrest policy.

#### B. Prior Related Commission Decisions

The Commission has issued five decisions on prior versions of these test claim statutes within the past 17 years, as follows.

##### **1. Penal Code section 13519 – Domestic Violence Training**

**Domestic Violence Training test claim:** In 1991, the Commission denied a test claim filed by the City of Pasadena requiring new and veteran peace officers to complete a course in how to handle domestic violence complaints as part of their basic training and continuing education courses (*Domestic Violence Training*, CSM-4376).<sup>8</sup> The Commission found that the test claim legislation: (1) does not require local agencies to implement a domestic violence training program and to pay the cost of the training; (2) does not increase the minimum number of basic training hours, nor the minimum number of advanced officer training hours, so no additional costs are incurred by local agencies; and (3) does not require local agencies to provide domestic violence training.

**Domestic Violence Training and Incident Reporting test claim:** In 1998, the Commission decided the *Domestic Violence Training and Incident Reporting* test claim (96-362-01), finding that Penal Code section 13519, subdivision (e)<sup>9</sup> (amended by Stats. 1995, ch. 965) is not a reimbursable

<sup>4</sup> See <[http://www.post.ca.gov/training/tps\\_bureau/domestic\\_violence/domestic-violence-manual\\_wv.pdf](http://www.post.ca.gov/training/tps_bureau/domestic_violence/domestic-violence-manual_wv.pdf)> (as of September 24, 2004).

<sup>5</sup> Penal Code section 13519, subdivision (g).

<sup>6</sup> Section 13701 was amended by Statutes 1998, chapter 702 (§§ 3.3 & 6, subd. (c)).

<sup>7</sup> Claimant originally pled Statutes 1998, chapters 698 and 701, but amended the test claim to add Statutes 1998, chapter 702.

<sup>8</sup> Penal Code section 13519, subdivisions (b) and (c) (Stats. 1984, ch. 1609).

<sup>9</sup> This is currently section 13519, subdivision (g) as amended by Statutes 1998, chapter 701.

state-mandated program. This statute requires local law enforcement officers below the rank of supervisor who normally respond to domestic violence calls to complete an updated domestic violence course every two years. The Commission found that because law enforcement officers are already required to take 24 hours of continuing education every two years, requiring the two-hour course as part of the 24-hour requirement does not impose increased costs mandated by the state.

The Commission's decision was upheld by the Second District Court of Appeal in *County of Los Angeles v. California Department of Finance*, holding that the statute did not impose a reimbursable state-mandated program because it merely "directed local law enforcement agencies to reallocate their training resources in a certain manner by mandating the inclusion of domestic violence training."<sup>10</sup>

## 2. Penal Code section 13701 – Domestic Violence Response and Arrest Policies

**Domestic Violence test claim [response policies]:** In 1987, the Commission adopted the *Domestic Violence Statement of Decision* (CSM-4222), finding that the test claim statutes<sup>11</sup> are state-mandated programs that require local law enforcement agencies to: "develop, adopt and implement policies and standards for officer's responses to domestic violence calls; ... [maintain] records and recording systems, and ... [provide] specific written information ... to victims of domestic violence." The Commission's parameters and guidelines allowed reimbursement for, among other things: (1) development, adoption and implementation of a domestic violence policy; (2) preparing a statement of information for incidents of domestic violence and giving it to victims (not including the victim card<sup>12</sup>); and (3) reporting to the Attorney General. Furnishing the victim with written information when responding to domestic violence incidents is also reimbursable.

Except for the 2003-2004 fiscal year, however, the Legislature has suspended these activities (the *Domestic Violence* mandate, Stats. 1984, ch. 1609) every year since the current test claim statute's operative date (January 1, 1999) based on authority in Government Code section 17581.<sup>13</sup>

**Domestic Violence Arrest Policies and Standards test claim:** In 1997, the Commission adopted the *Domestic Violence Arrest Policies and Standards Statement of Decision* (96-362-02), finding that Penal Code section 13701, (as amended by Stats. 1995, ch. 246) constitutes a reimbursable

<sup>10</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1194.

<sup>11</sup> Statutes 1984, chapter 1609 and Statutes 1985, chapter 668 (Pen. Code, §§ 13700-13731).

<sup>12</sup> The victim card provision was added in 1991, which the Commission found reimbursable in the *Rape Victims Counseling Center Notice* test claim, CSM-4426 (1993).

<sup>13</sup> Except for the 2003-2004 budget (Stats. 2003, ch. 157), Statutes 1984, chapter 1609 and Statutes 1985, chapter 668 have been suspended by the Legislature pursuant to Government Code section 17581 every year since the operative date of the current test claim statutes (January 1, 1999) as follows: Statutes 1998, chapter 282, Item 9210-295-001, Schedule (8), Provision 2; 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 Legislature did not suspend in 2003-2004, as of August 2, 2003, the date the 2003-2004 budget was enacted. It was suspended again in the 2004-2005 budget: Statutes 2004, chapter 208, Item 9210-295-0001, Schedule (3), Provision 5.

state-mandated program for development, adoption, and implementation of domestic violence arrest procedures.<sup>14</sup> The Commission distinguished between the domestic violence *response* procedures in the suspended statute discussed above, and domestic violence *arrest* procedures in the amended test claim statute (now § 13701, subd. (b)), and concluded that the arrest procedures are not part of the legislative suspension of the response policy.

### 3. Penal Code section 264.2 – Victim Card Distribution

**Rape Victims Counseling Center Notice test claim:** In 1993, the Commission adopted the *Rape Victims Counseling Center Notice* Statement of Decision (CSM-4426), finding that Statutes 1991, chapter 999 and Statutes 1992, chapter 224 (Pen. Code, § 264.2, subds. (b)(1) & (b)(2), & Pen. Code, § 13701) is a state-mandated program. The parameters and guidelines list the following reimbursable activities:

[R]equiring local law enforcement agencies to notify the local rape victim counseling center when the victim is transported to a hospital for examination and the victim approves of that notification; subject to the approval of the victim and upon request from the treating hospital, to verify whether the local rape victim counseling center has been notified; to revise the "Victims of Domestic Violence" card by adding information to assist rape victims, and to furnish a rape victim with a "Victims of Domestic Violence" card.

#### Claimant's Position

Claimant contends that the test claim legislation constitutes a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. Claimant requests reimbursement for the costs of providing victim cards to new groups of victims, giving additional written information to victims, giving victims additional emergency assistance, training officers, updating policies and procedures and modifying record-keeping systems.

Claimant amended the test claim in December 2003 to add Statutes 1998, chapter 702, but pled the same activities as in the original test claim. The Commission accepted the amendment as filed in a timely manner. Claimant concurred with the draft staff analysis, as noted below.

#### State Agency Position

The Department of Finance (DOF) comments regarding Statutes 1998, chapter 698, that "these provisions would appear to result in a reimbursable state-mandated local program ...." (Chapter 698 added two new groups of victims to those who receive a victim card). But DOF notes that the Legislature has suspended the mandates imposed by Statutes 1984, chapter 1609 relating to law

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<sup>14</sup> This mandate (Stats, 1995, ch. 246) currently has \$1000 in the 2004-05 budget; Statutes 2004, chapter 208, Item 8120-102-0268, Schedule (1). The parameters and guidelines for this claim identify a uniform cost allowance as follows: A standard time of twenty-nine (29) minutes may be claimed to identify the primary aggressor in any domestic violence incident. The standard time of twenty-nine (29) minutes is broken down as follows: Seventeen (17) Minutes – Interview of both parties. Twelve (12) Minutes – Consideration of the factors listed [in the reimbursable activities]. The total cost will be determined by multiplying the number of reported responses x the average productive hourly rate, including applicable indirect costs as specified in section V., paragraph B, herein, x .48 (29 minutes divided by 60 minutes).

enforcement responses to domestic violence, and argues that this includes the provisions of section 13701 requiring distribution of a victim card. According to DOF, "until such time as the Legislature may opt to remove its suspension of this mandate, we believe any reimbursable provisions of Chapter 698/98 at issue in the present matter would similarly not be reimbursable."

Regarding Statutes 1998, chapter 701, DOF states that requiring the domestic violence training course for law enforcement officers to include techniques for recognizing the signs of domestic violence would be satisfied by POST. As to the rest of chapter 701 (responding to domestic violence calls to include emergency assistance to the victim's children, transportation of the domestic violence victim and children to a hospital for treatment if necessary, and police assistance in safe passage out of the victim's residence), DOF believes "that these provisions may result in a reimbursable state-mandated local program." However, based on the Legislature's suspension of Statutes 1984, chapter 1609, DOF believes "any provision of Chapter 701/98 at issue ... would not be reimbursable."

No other state agencies commented on the test claim, nor on the amendment.

### COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution<sup>15</sup> recognizes the state constitutional restrictions on the powers of local government to tax and spend.<sup>16</sup> "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 because of the taxing and spending limitations that articles XIII A and XIII B impose."<sup>17</sup> 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.<sup>18</sup> In addition, the required activity or task

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<sup>15</sup> Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides:

(a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

<sup>16</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

<sup>17</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>18</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.<sup>19</sup>

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.<sup>20</sup> To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.<sup>21</sup> A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."<sup>22</sup> Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>23</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>24</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."<sup>25</sup>

This test claim presents the following issues:

- Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose a new program or higher level of service on local agencies within the meaning of article XIII B, section 6?
- Does the test claim legislation impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?
- Does the Commission have jurisdiction over activities decided in a prior test claim?

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<sup>19</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878, (*San Diego Unified School Dist.*); *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835 (*Lucia Mar*).

<sup>20</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835).

<sup>21</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

<sup>22</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878.

<sup>23</sup> *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 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

<sup>24</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

<sup>25</sup> *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

- If the Commission finds a reimbursable state-mandate in the test claim statute(s), does article XIII B, section 6, subdivision (b)(5), apply to this test claim?

**Issue 1: Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?**

**A. Do the test claim statutes impose state-mandated activities on local agencies?**

**Domestic violence arrest policy (§ 13701, subd. (b)):** Statutes 1998, chapter 702 amended section 13701, subdivision (b),<sup>26</sup> by adding orders issued by other states, tribes or territories to the list of enforceable protective orders in the domestic violence arrest policy. The test claim statute amended the preexisting law as follows:

These [domestic violence arrest] policies also shall require the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order issued under Chapter 4 (commencing with Section 2040) of Part 1 of Division 6, Division 10 (commencing with Section 6200), or Chapter 6 (commencing with Section 7700) of part 3 of Division 12, of the Family Code, or Section 136.2 of this code, or any other state, tribe, or territory, has been violated.

Local law enforcement agencies must now amend their domestic violence arrest policies to include these orders issued by other jurisdictions. The Commission finds that this amendment is not a state mandate because it is incidental to a requirement of federal law.

The legislative history of this amendment clearly indicates that it was enacted to bring California into compliance with the federal Violence Against Women Act (18 U.S.C. § 2265), which requires any protective order issued by a court of one state or Indian tribe to be accorded full faith and credit by the court of another state or Indian tribe and enforced as if it were the order of the enforcing state or Indian tribe.<sup>27</sup>

In *San Diego Unified School District v. Commission on State Mandates*,<sup>28</sup> the California Supreme Court considered whether the pupil expulsion hearing procedures of Education Code section 48918 are reimbursable. The court held that this Education Code provision was adopted to implement a federal due process mandate, so the hearing costs were not reimbursable.<sup>29</sup> In doing so, the court espoused the following rule.

[F]or purposes of ruling upon a request for reimbursement, challenged state rules or procedures [i.e., test claim statutes] that are intended to implement an applicable federal law -- and whose costs are, in context, de minimis -- should be treated as part and parcel of the underlying federal mandate.<sup>30</sup>

<sup>26</sup> This subdivision was added by Statutes 1995, chapter 246, which the Commission found is reimbursable in the *Domestic Violence Arrest Policies and Standards*, 96-362-02 (1996) test claim.

<sup>27</sup> Senate Judiciary Committee analysis, Assembly Bill No. 2177 (1997-1998 Reg. Sess.) as amended March 26, 1998, page 1.

<sup>28</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859.

<sup>29</sup> *Id.* at page 888.

<sup>30</sup> *Id.* at page 890.

The reasoning of the *San Diego Unified* case applies to this claim because the amendment in the test claim statute was intended to implement a federal law (the Violence Against Women Act) and contains a de minimis, one-time cost (inserting a phrase in the domestic violence arrest policy).

Thus, the Commission finds that the amendment to section 13701, subdivision (b), in Statutes 1998, chapter 702 does not impose a state-mandated activity on local agencies because it is "part and parcel of the underlying federal mandate."<sup>31</sup>

**Excluding the support person (Pen. Code, § 264.2, subd. (b)(4)):** Section 1.5 of Statutes 1998, chapter 698 adds subdivision (b)(4) to section 264.2 regarding sex-crime victims:

A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

Preexisting law gives the victims of specified sex crimes<sup>32</sup> the right to have a support person present during any medical evidentiary or physical examination.

The Commission finds that subdivision (b)(4) does not impose a state-mandated activity on local agencies. The statute's use of the word "may" makes this activity at the officer's discretion.<sup>33</sup> Therefore, Penal Code section 264.2, subdivision (b)(4), is not subject to article XIII B, section 6.<sup>34</sup>

**Basic training (§ 13519, subd. (c)(5)):** Section 13519 requires POST to implement a course for training law enforcement officers in handling domestic violence complaints and developing guidelines for response to domestic violence. Section 1 of the test claim statute (Stats. 1998, ch. 701) amended subdivision (c)(5), to add "signs of domestic violence" to the list of basic training procedures and techniques.

In 1991, the Commission, in the *Domestic Violence Training* decision, CSM-4376 (1991), found that the basic training procedures and techniques of section 13519, subdivision (c), are not mandatory because the test claim legislation: (1) does not require local agencies to implement a domestic violence training program and to pay the cost of the training; (2) does not increase the minimum number of basic training hours, nor the minimum number of advanced officer training hours, so no additional costs are incurred by local agencies; and (3) does not require local agencies to provide domestic violence training.<sup>35</sup> The same analysis applies to this test claim.

The Commission finds that the statutory amendment pled by claimant does not mandate basic training activities on local law enforcement agencies because the requirement to implement the

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<sup>31</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 890.

<sup>32</sup> These include rape (§ 261) statutory rape (§ 261.5), spousal rape (§ 262), sodomy (§ 286), oral copulation (§ 288a), and forcible acts of sexual penetration (§ 289).

<sup>33</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 742; *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 783.

<sup>34</sup> Alternatively, because claimant pled no activities related to subdivision (b)(4), there is no evidence in the record that excluding the support person imposes costs mandated by the state.

<sup>35</sup> This finding is consistent with the Commission's decision in *Law Enforcement Racial and Cultural Diversity Training* 97-TC-06 (2000).



domestic violence course is on POST, a state agency. Moreover, the requirement to complete the basic training course on domestic violence is mandated only on the individual seeking peace officer status.

Subdivision (c) of section 13519 states that "the course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the [domestic violence] procedures and techniques described below: . . ." The test claim statute does not mandate local agencies to provide the course of basic training, nor does it specify who is required to provide it.

In addition, there are no provisions in other statutes or regulations issued by POST that require local agencies to provide basic training to recruits. Since 1959, section 13510 and following have required POST to adopt rules establishing minimum standards relating to the physical, mental and moral fitness governing recruitment of new local law enforcement officers.<sup>36</sup> Recruits may obtain the required training at any institution approved by POST.<sup>37</sup> Moreover, "each *applicant* for admission to a basic course of training certified by [POST] who is *not* sponsored by a local or other law enforcement agency . . . shall be required to submit written certification from the Department of Justice . . . that the applicant has no criminal history background. . . ."<sup>38</sup>

Since 1971, section 832 has required "every person described in this chapter as a peace officer" to satisfactorily complete an introductory course of training prescribed by POST before they can exercise the powers of a peace officer.<sup>39</sup> Subdivision (e)(1) requires any person completing the basic training course "who does not become employed as a peace officer" within three years to pass the basic training examination. POST may charge a fee for the basic training examination to each "applicant" who is not sponsored or employed by a local law enforcement agency.<sup>40</sup>

Because the test claim statute does not mandate local agencies to incur costs to provide basic training, including the domestic violence course, the Commission finds that section 13519 (as amended by Stats. 1998, ch. 701), as it applies to basic training, does not impose a state-mandated activity on local agencies.

**Continuing training (§ 13519, subd. (c)(5)):** As discussed above, the test claim statute (Stats. 1998, ch. 701) amended subdivision (c)(5), to add "signs of domestic violence" to the list of basic training procedures and techniques. Subdivision (g), the continuing training provision, requires specified peace officers to take the domestic violence course every two years "that is developed according to the standards and guidelines developed pursuant to subdivision (d)." Subdivision (d) states: "The guidelines developed by the commission [POST] shall also incorporate the foregoing factors." These foregoing factors are listed in subdivision (c), the subdivision that was amended by the test claim statute to include the "signs of domestic violence" to the course content. Thus, the test claim amendment to subdivision (c) also affects continuing training.

<sup>36</sup> These standards are found in Title 11 of the California Code of Regulations.

<sup>37</sup> Penal Code section 13511, subdivision (a).

<sup>38</sup> Penal Code section 13511.5.

<sup>39</sup> See also POST's regulation, California Code of Regulations, title 11, section 1005, subdivision (a)(9).

<sup>40</sup> Penal Code section 832, subdivision (g).

The Commission found that the domestic violence continuing education requirement of section 13519 is not a reimbursable mandate in the *Domestic Violence Training and Incident Reporting* decision, 96-362-01 (1996). This test claim was litigated and the decision upheld by the court in *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176. But the court stated that POST certification for continuing education "is, for all practical purposes, not a 'voluntary' program and therefore the County must, in order to comply with section 13519, add domestic violence training to its curriculum." (*Id.* at 1194).

For this reason, the Commission finds that the amendment to section 13519, subdivision (c)(5), as applied to continuing training, is mandated by the state. It is therefore further analyzed under Issue 2 below.

**Response policy, victim assistance & information (§ 13701, subd. (c)(7) & (c)(9)(D)):** The test claim statute added the following underlined provisions to section 13701's domestic violence response policy:

- (subd. (c)(7)): Include standards for "Emergency assistance to victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."
- (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229."

Before the test claim statute, the domestic violence response policy was not required to include the underlined provisions above.

Therefore, adding these statements to the domestic violence response policy is required based on the plain language of section 13701, subdivision (a), which states: "Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls, ..."<sup>41</sup> [Emphasis added.]

The Legislature, however, has suspended the underlying requirement to develop, adopt, and implement policies and standards for officers' responses to domestic violence calls. As discussed in the Background, the Commission approved the *Domestic Violence* test claim (CSM-4222) in 1987. As stated in the parameters and guidelines, local agencies are eligible for reimbursement for the following activities: (1) developing, adopting and implementing a Domestic Violence Policy; (2) preparing a statement of information for victims of incidents of domestic violence; (3) preparing a statement of information for victims of domestic violence; and (4) reporting to the Attorney General. The Commission also found that furnishing the victim with written information when responding to domestic violence incidents, as well as report writing and other specified costs are reimbursable. Except for one year, the Legislature has suspended Statutes 1984, chapter 1609<sup>42</sup> in each budget act

<sup>41</sup> This finding is consistent with the Commission's decision in the *Domestic Violence* decision (CSM-4222).

<sup>42</sup> Except for the 2003-2004 budget, Statutes 1984, chapter 1609 has been suspended by the Legislature since the operative date of the current test claim statutes (January 1, 1999), as follows: Statutes 1998, chapter 282, Item 9210-295-001, Schedule (8), Provision 2; Statutes 1999, chapter 50, Item 9210-295-0001, Schedule (8), Provision 2; Statutes 2000, chapter 52, Item 9210-295-0001,

in fiscal years 1992-1993 through 2004-2005.<sup>43</sup> Although the budget acts do not mention Statutes 1985, chapter 668, (part of the *Domestic Violence* decision, CSM-4222), the Commission finds that the Legislature suspended it also. As specified in the State Controller's Office Claiming Instructions for CSM-4222, the entire domestic violence program as outlined in the parameters and guidelines was suspended.<sup>44</sup>

Thus, the issue here is what effect the suspension of *Domestic Violence* CSM-4222 (§ 13701, Stats. 1984, ch. 1609, Stats. 1985, ch. 668) has on the analysis of the test claim amendments to Penal Code section 13701.

DOF comments that the Legislature has suspended the mandates imposed by Statutes 1984, chapter 1609 relating to law enforcement responses to domestic violence. According to DOF, "until such time as the Legislature may opt to remove its suspension of this mandate, we believe any reimbursable provisions of Chapter 698/98 at issue in the present matter would similarly not be reimbursable."

Claimant disagrees, arguing that the suspension of Statutes 1984, chapter 1609 does not include the victim card provisions.<sup>45</sup> According to claimant, because chapter 1609's 'optional' requirements are different from the mandated requirements in the test claim legislation, chapter 1609 is not relevant as to whether the test claim is reimbursable.

For reasons stated below, the Commission finds that for years in which the Legislature suspends the mandate to develop, adopt, and implement a domestic violence response policy, adding the provisions in (c)(7) and (c)(9)(D) to the response policy is voluntary and not mandated by the state. But for years when the Legislature does not suspend the mandate to develop, adopt, and implement a domestic violence response policy, the activity of adding the provisions in (c)(7) and (c)(9)(D) to the response policy is mandated by the state.

Government Code section 17581, subdivision (a), governs mandate suspension. It makes complying with test claim statutes optional for local agencies on two conditions. First, the Commission (or the Legislature or any court) must find that the test claim statute, or any portion thereof, is a reimbursable state mandate. Second, the Legislature must specify in the budget that the test claim statute is not reimbursable for the fiscal year (by appropriating zero dollars for the program). Government Code section 17581, subdivision (a), states the following:

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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.

<sup>43</sup> The Legislature did not suspend the mandate in 2003-2004. However, chapter 1609 was suspended again in the 2004-2005 budget act (Stats. 2004, ch. 208): Item 9210-295-0001, Schedule (3), Provision 5.

<sup>44</sup> State Controller's Office, County Mandated Cost Manual, Revised 9/94, page 1.

<sup>45</sup> Claimant cited the victim card provisions of Penal Code section 13701, but the arguments also apply to the victim card provisions of Penal Code 264.2. It appears claimant's comments implicitly refer to the following prior Commission decisions: (1) *Domestic Violence*, CSM-4222 (1987) [Stats. 1984, ch. 1609 & Stats. 1985, ch. 668]; and (2) *Rape Victims Counseling Center Notice*, CSM-4426 (1993) [Stats. 1991, ch. 999 & Stats. 1992, ch. 224].

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 for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

- (1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.
- (2) The statute or executive order, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursement.

The activity required by the test claim statute to amend the original domestic violence response policy is included within the suspended program. The test claim statute requires adding transportation to "a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence" to the emergency assistance provision of the domestic violence response policy. It also requires adding victim's compensation program contact information to the domestic violence response policy. The underlying suspended program encompasses these emergency assistance and victim information test claim amendments.

Since the underlying domestic violence response policy is voluntary in years that it is suspended by the Legislature, the local agencies' obligation to amend the response policy is also voluntary in years the suspension is in effect. The California Supreme Court, in *Kern High School District*, found that "if a school district elects to participate in or continue participation in any *underlying voluntary* education-related funded program, the district's obligation to comply with the notice and agenda requirements related to that program does not constitute a reimbursable state mandate."<sup>46</sup> The court further stated, on page 731 of the decision, that:

*[W]e reject claimants' assertion that they have been legally compelled to incur notice and agenda costs, and hence are entitled to reimbursement from the state, based merely upon the circumstance that notice and agenda provisions are mandatory elements of education-related program in which claimants have participated, without regard to whether claimant's participation in the underlying program is voluntary or compelled.*  
[Emphasis added.]

The Commission is required to follow the holding of the California Supreme Court in interpreting state mandate issues.

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<sup>46</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th at page 743.

Therefore, for fiscal years when the *Domestic Violence*, CSM-4222 (1987) program is suspended, the Commission finds that adding the emergency assistance and victim information to the domestic violence response policy, as required by Penal Code section 13701, subdivision (c)(7) and (c)(9)(D), is part of the suspended mandate, CSM-4222, and is optional. For fiscal years when the Legislature does not suspend the program, the Commission finds that adding the emergency assistance and victim information to the response policy is mandated by the state. Thus, the analysis continues under Issue 2 as to whether the activities in Penal Code section 13701, subdivision (c)(7) and (c)(9)(D), constitute a new program or higher level of service in years that the Legislature does not suspend the underlying domestic violence response policy program (CSM-4222).

**Response policy, victim card (§ 13701 subd. (c)(9)(H)):** The test claim statute requires local agencies to add the following to the victim card provision in the domestic violence response policy: "(i) The names and phone number of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837 ... [¶]... [¶] (iv) A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime."

The victim card provision was not part of the suspended domestic violence response policy mandate because it was added to section 13701 in 1991, and was the subject of a prior test claim: *Rape Victims Counseling Center Notice* (CSM-4426) that was approved by the Commission. In it, the Commission found that revising the victim card, and furnishing it to victims, is reimbursable. The Commission's decision in *Rape Victims Counseling Center Notice* has not been suspended by the Legislature.

Therefore, the Commission finds that adding the following to the domestic violence response policy is mandated by the state: (1) phone numbers of or county hotlines for local battered women shelters and (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

**Providing the victim card (§ 264.2, subd. (a)):** Section 1.5 of Statutes 1998, chapter 698 amended subdivision (a) of section 264.2 to require law enforcement officers to give victims of specified sex crimes a Victim of Domestic Violence Card, or victim card. The test claim statute adds victims of two crimes--alleged battery or corporal injury on a spouse or other specified victim--to the list of those for which a victim card is provided. Statutes 1998, chapter 698 amended section 264.2, subdivision (a) as follows (added text underlined):

(a) Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph (G)<sup>47</sup> of paragraph (9) of subdivision (c) of Section 13701 of the Penal Code.

<sup>47</sup> The reference to subparagraph (G) of paragraph 9 of subdivision (c) of Penal Code section 13701 is in error, as (G) does not refer to the victim card. The correct reference to victim cards is subparagraph (H). Subparagraph (G) requires providing victims with a statement about the right to file civil suit for certain losses and expenses. This subparagraph predates the test claim statutes and is not analyzed herein.

Penal Code section 243, subdivision (e), involves battery against "a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship." Penal Code section 273.5 involves willful infliction of corporal injury on a "spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child."

The Commission finds that Penal Code section 264.2, subdivision (a), as amended by the test claim statute imposes a state-mandated activity on local agencies to provide two new groups of victims of specified crimes with a victim card.

**Summary:** On the issue of whether or not the test claim statutes impose a state-mandate activity on local agencies, the Commission finds the following.

- 13701 (d): DV arrest policy • No. A de minimis activity intended to implement a federal law.
- 264.2 (b)(4): Excluding the support person • No. A discretionary activity.
- 13519 (c)(5): Basic training • No. Requirement is on POST and on person seeking peace officer status.
- 13519 (c)(5): Continuing training • Yes, for all practical purposes not voluntary. *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1194.
- 13701 (c)(7) & (c)(9)(D): response policy, victim assistance and information • Yes, adding statements to the response policy is mandatory in years in which the Legislature has not suspended the *Domestic Violence* mandate.
- 13701 (c)(9)(H): Response policy, victim card • Yes, amending the victim card provision in the response policy is mandatory.
- 264.2 (a): Providing the victim card • Yes, providing victim cards is mandatory.

**B. Does the test claim legislation qualify as a program under article XIII B, section 6?**

For the remaining test claim statutes (§§ 13519, subd. (c)(5), & 13701, subd. (c), & 264.2, subd. (a), as amended by the test claim statutes) to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program," defined 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.<sup>48</sup> Only one of these findings is necessary to trigger article XIII B, section 6.<sup>49</sup>

The test claim statutes pertain to assisting and distributing information to domestic violence victims and domestic violence training for law enforcement. These activities are peculiarly governmental

<sup>48</sup> *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

<sup>49</sup> *Carmel Valley Fire Protection Dist.* (1987) 190 Cal.App.3d 521, 537.

public safety functions administered by local law enforcement agencies as a service to the public. Moreover, the test claim legislation imposes unique requirements on local agencies that do not apply generally to all residents and entities of the state. Therefore, the Commission finds the test claim statutes constitute a "program" within the meaning of article XIII B, section 6.

**Issue 2: Does the test claim legislation impose a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?**

To determine if the "program" is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before enacting the test claim legislation.<sup>50</sup>

**Continuing training (§ 13519, subd. (c)(5)):** The Commission found, under issue 1 above, that local agencies are required to include the "signs of domestic violence" in the course content for the domestic violence continuing education training course for "each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence."

In the *Domestic Violence Training and Incident Reporting* Statement of Decision (96-362-01), the Commission found that the domestic violence continuing education course required by Penal Code section 13519, subdivision (e)<sup>51</sup> (amended by Stats. 1995, ch. 965) is not a reimbursable state-mandated program. The Commission determined that because non-supervisory patrol officers are already required to take 24 hours of continuing training every two years,<sup>52</sup> requiring the two-hour domestic violence course<sup>53</sup> within the existing 24-hour requirement does not impose increased costs mandated by the state.

The California Court of Appeal upheld the Commission's decision in *County of Los Angeles v. Commission on State Mandates*.<sup>54</sup> Since the court's holding was based on the 1995 version of section 13519, the issue is whether the test claim amendment could alter that conclusion.

The *County of Los Angeles* court stated,

[L]ocal law enforcement agencies may choose from a menu of course offerings to fulfill the 24-hour requirement. ... Adding domestic violence training obviously may displace other courses from the menu, or require the adding of courses. ... However, merely by adding a course requirement to POST's certification, the state has not shifted from itself to the County the burdens of state government. Rather, it has directed local law enforcement agencies to reallocate their training resources ... by mandating the inclusion of domestic violence training. ... [T]he state is requiring certain courses to be placed within an already existing

<sup>50</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

<sup>51</sup> This is currently section 13519, subdivision (g) as amended by Statutes 1998, chapter 701.

<sup>52</sup> California Code of Regulations, title 11, section 1005, subdivision (d)(1).

<sup>53</sup> California Code of Regulations, title 11, section 1081, subdivision (a)(25).

<sup>54</sup> *County of Los Angeles v. Commission State Mandates*, *supra*, 110 Cal. App. 4th 1176.

framework of training. This loss of "flexibility" does not... require the County to expend funds that previously had been expended on the POST program by the State.<sup>55</sup>

Thus, the court concluded that the statute did not mandate a higher level of service.<sup>56</sup>

In adding "the signs of domestic violence" to the domestic violence continuing training content, the amendment to section 13519 is not a higher level of service because it does not alter the factors upon which the court relied, nor does it increase the existing framework of training. Local law enforcement's requirement to take the two-hour domestic violence course, and to take 24-hours of training every two years, remain the same. The test claim statute does not increase the hourly requirement for continuing training. Therefore, the Commission finds that the test claim amendment to section 13519, subdivision (c)(5), as it relates to continuing training (amended by Stats. 1998, ch. 701) does not constitute a new program or higher level of service.

**Response policy, victim assistance (§ 13701 subd. (c)(7)):** Statutes 1998, chapter 702 amended section 13701, subdivision (c)(7), to add the one-time activity of amending law enforcement's policies and standards for officers' responses to domestic violence calls. Specifically, chapter 702 added to the policy, "transportation to a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence."<sup>57</sup> Although this activity is currently voluntary because it is part of the legislatively suspended program, as discussed above, further analysis is necessary for years when the underlying program is not suspended.

Preexisting law did not require law enforcement's domestic violence response policy to include "transportation to a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence." Therefore, the Commission finds that adding these provisions to the domestic violence response policy is a new program or higher level of service only in years when the Legislature does not suspend the underlying domestic violence response policy program (CSM 4222).

**Response policy, victim information (§ 13701 subd. (c)(9)(D)):** The test claim statute (Stats. 1998, ch. 702, § 3.3) amended the domestic violence response policy by requiring local agencies to include in the response policy the following:

- Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229."

Although this activity is currently voluntary because it is part of the legislatively suspended program, as discussed above, further analysis is necessary for years when the underlying program is not suspended.

Preexisting law required the policy to include giving victims other assorted information, including information about shelters, community services, restraint of the alleged perpetrator, and legal information. Under prior law, however, the policy was not required to include giving the victim information about the California victims' compensation program.

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<sup>55</sup> *Id.* at page 1194.

<sup>56</sup> *Id.* at page 1193.

<sup>57</sup> Penal Code section 13701, subdivision (c)(7).



Therefore, the Commission finds that the one-time activity of inserting this contact information for the victims' compensation program, as specified in the test claim statute, into the domestic violence response policy, is a new program or higher level of service only in years when the Legislature does not suspend the underlying program.

**Response policy, victim card (§ 13701 subd. (c)(9)(H)):** The test claim statute amended subdivision (c)(9)(H) of section 13701, which contains the policy's description of the victim card's contents. It was amended to add information to the card, as follows:

(i) The names and phone number of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837 ... [¶]...[¶]

(iv) A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.<sup>58</sup>

Preexisting law required the victim card to include the following specified information:

(i) The names and locations of rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.

(ii) A simple statement on the proper procedures for a victim to follow after a sexual assault.

(iii) A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.

Prior law did not require the domestic violence response policy's description of the victim card to include information about battered women shelters or a statement regarding the criminality of domestic violence or assault by a spouse. Since the test claim statute altered the victim card to add this information, new printing would be required.

Therefore, the Commission finds that the one-time activities of inserting information about battered women shelters and a statement regarding the criminality of domestic violence or assault by a person known to the victim or a spouse, as specified in the test claim statute, into the domestic violence response policy, and printing victim cards to include the new information, is a new program or higher level of service.<sup>58</sup>

**Providing the victim card (§ 264.2, subd. (a)):** Section 1.5 of Statutes 1998, chapter 698 amended subdivision (a) of section 264.2, which specifies the types of victims who must be provided with a victim card.

The test claim statute adds victims of two crimes—alleged battery or corporal injury on a spouse or other specified victim—to the list of those for which a victim card is provided. Statutes 1998, chapter 698 amended section 264.2, subdivision (a) as follows (added text underlined):

(a) Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, the law enforcement officer

<sup>58</sup> Because the Legislature has not suspended the Commission's *Rape Victims Counseling Center Notice* decision, CSM-4426 (1993), suspension is not an issue for victim cards.

assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph (G)<sup>59</sup> of paragraph (9) of subdivision (c) of Section 13701 of the Penal Code.

Penal Code section 243, subdivision (e), involves battery against "a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship." Penal Code section 273.5 involves willful infliction of corporal injury on a "spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child."

Prior law required law enforcement agencies to provide a victim card to victims of the following crimes: rape, sex with a minor, spousal rape, sodomy, oral copulation, and penetration by a foreign object. The amendment to section 264.2, subdivision (a), requires law enforcement to provide victim cards to victims of an alleged battery or corporal injury on a spouse or other specified victim. Because this amendment expands the universe of victim card recipients to include victims of two new crimes -- spousal battery and willful infliction of corporal injury -- the Commission finds that section 264.2, subdivision (a), as amended by Statutes 1998, chapter 698 constitutes a new program or higher level of service.

**Summary:** As to whether or not the test claim statutes are a new program or higher level of service subject to article XIII B, section 6, the Commission finds the following:

- 13519 (c)(5): Continuing training
- 13701 (c)(7): Response policy, victim assistance
- 13701 (c)(9)(D): Response policy, victim information
- 13701 (c)(9)(H): Response policy, victim card
- 264.2 (a): Providing the victim card
- No, not a new program or higher level of service. *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1194.
- Yes, the one-time activity of adding statements to the response policy is a new program or higher level of service if the Legislature has not suspended the *Domestic Violence* mandate.
- Yes, the one-time activity of adding contact information to the response policy is a new program or higher level of service if the Legislature has not suspended the *Domestic Violence* mandate.
- Yes, the one-time activities of amending the victim card provision in the response policy and reprinting cards is a new program or higher level of service.
- Yes, giving out victim cards is a new program or higher level of service.

<sup>59</sup> As stated in footnote 48 above, the reference to subparagraph (G) of paragraph 9 of subdivision (c) of Penal Code section 13701 is in error, as (G) does not refer to the victim card. The correct reference to victim cards is subparagraph (H).

**Issue 3: Does the test claim legislation impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?**

In order for the activities listed above to impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution, two criteria must apply. First, the activities must impose increased costs mandated by the state.<sup>60</sup> Second, no statutory exceptions as listed in Government Code section 17556 can apply. Government Code section 17514 defines "costs mandated by the state" as follows:

[A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates 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.

**Response policy, victim information (§ 13701, subds. (c)(7) & (c)(9)(D)):** As discussed above, for years in which "Statutes 1984, chapter 1609"<sup>61</sup> is not suspended in the budget act, the one-time activity of adding the following information to the domestic violence response policy is a mandated new program or higher level of service:

- Victim assistance provisions: "transportation to a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence." (§ 13701, subd. (c)(7).)
- Victim notice: "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229." (§ 13701, subd. (c)(9)(D).)

Except for fiscal year 2003-2004, the underlying program has been suspended by the Legislature since the effective date of the test claim statute. According to a declaration provided by the claimant, the claimant incurred costs for this one-time activity between January 1, 1999, and June 30, 1999, when the suspension was in effect and the state did not mandate the activities.<sup>62</sup> Therefore, there is no evidence in the record that the activity of adding victim assistance information and information about the victims compensation program, as required by Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D),<sup>63</sup> to the domestic violence response policy resulted in "costs mandated by the state," within the meaning of Government Code section 17514, to the claimant or any other local agency. Therefore, reimbursement is not required for Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D).<sup>64</sup>

**Response policy, victim card, and providing the victim card (§§ 13701, subd. (c)(9)(H), 264.2, subd. (a)):** As indicated above, the Commission finds the following activities constitute mandated new programs or higher levels of service:

- The one-time activities of amending the victim card provision of the domestic violence response policy to include information about battered women shelters and a statement

<sup>60</sup> *Kern High School Dist.*, *supra*, 30 Cal. 4th 727, 736; *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835; Government Code section 17514.

<sup>61</sup> The suspended budget provision states "Statutes 1984, chapter 1609." As discussed above, this refers to the Commission's decision in the *Domestic Violence* test claim CSM-4222 (1991).

<sup>62</sup> Declaration of Martha Zavala, May 7, 1999, page 4, Schedule A.

regarding the criminality of domestic violence or assault by a spouse, and printing victim cards to include the new information, as specified in Penal Code section 13701, subdivision (c)(9)(H);

- Providing victim cards to victims of an alleged spousal battery and willful infliction of corporal injury, as required by Penal Code section 264.2, subdivision (a).

In the test claim, the claimant states that it would incur increased costs in excess of \$200 per annum,<sup>63</sup> which was the standard under Government Code section 17564, subdivision (a), at the time the claim was filed. For the costs of printing the new cards, claimant estimated costs of \$8,000.<sup>64</sup> There is no evidence in the record to dispute these costs.

Furthermore, none of the exceptions in Government Code section 17556 apply to this claim.

Therefore, the Commission finds there are costs mandated by the state within the meaning of Government Code sections 17514 for these activities.

**Issue 4: Does the Commission have jurisdiction over activities decided in a prior test claim?**

**Providing victim assistance & information (§ 13701, subd. (e)(7)):** Claimant requests reimbursement to implement portions of the domestic violence response policy. For example, the claimant requests reimbursement for transporting victims to a hospital for treatment and assisting victims out of the residence. The Commission finds that the Commission already decided these "emergency assistance" activities in the *Domestic Violence* parameters and guidelines, CSM-4222 (1987), and therefore has no jurisdiction over this activity for purposes of this claim.<sup>65</sup>

The statutory scheme for mandate determinations under article XIII B, section 6 establishes finality for decisions adopted by the Commission. The Commission has no continuing jurisdiction over its decisions, including the *Domestic Violence* decision (CSM-4222). Until 1999, the Commission did not have any statutory authority to reconsider test claim decisions. In 1999, Government Code section 17559 was amended to authorize the Commission to order reconsideration, on petition of a party, within 30 days after the statement of decision is issued. (Stats. 1999, ch. 643.)

This finality also applies to parameters and guidelines. Once the parameters and guidelines are adopted, the State Controller's Office has 60 days to issue claiming instructions to assist local agencies in claiming costs,<sup>66</sup> who then have 120 days from the date of the claiming instructions to file their reimbursement claims with the State Controller's Office for initial fiscal year costs.<sup>67</sup> Although the parties may request amendments to the parameters and guidelines, the request must be filed with the Commission before the deadline for initial claims to apply the proposed amendment

<sup>63</sup> The current standard is \$1000, amended by Statutes 2002, chapter 1124, effective September 30, 2002.

<sup>64</sup> Test Claim 98-TC-14, page 3.

<sup>65</sup> The decision of the quasi-judicial administrative agency, if not challenged within the applicable statute of limitations, binds the parties on the issues litigated. *Hollywood Circle, Inc. v. Department of Alcoholic Beverage* (1961) 55 Cal.2d 728, 731-733.

<sup>66</sup> Government Code, section 17558, subdivision (b).

<sup>67</sup> Government Code, section 17561, subdivision (d)(1).

retroactively back to all years eligible for reimbursement.<sup>68</sup> Requests to amend parameters and guidelines filed after the deadline for initial claims must be submitted on or before January 15 following a fiscal year in order to establish eligibility for that fiscal year.<sup>69</sup> Thus, Commission adopted amendments may apply to the prior fiscal year if filed before January 15 following a fiscal year. A request to amend the parameters and guidelines for *Domestic Violence* could not be retroactive to the initial reimbursement period of the original decision unless it were filed before the due date for the initial reimbursement claims.

The test claim statute in this case, Penal Code section 13701, subdivision (c)(7), added the following underlined provisions to section 13701's domestic violence response policy:

Include standards for "Emergency assistance to victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."

In years when the underlying *Domestic Violence* program is not suspended, claimants are eligible to receive reimbursement for, among other things: '(1) development, adoption and implementation of a Domestic Violence Policy.' The emergency assistance to victims, medical care, and transportation to a shelter were all included in the original test claim statute's response policy. Penal Code section 13701 originally included "[e]mergency assistance to victims, such as ...." [Emphasis added.] The phrase, "such as" means, "for example" or "of a kind specified."<sup>70</sup> Thus, the test claim statute in this case merely adds further examples of assistance after the "such as." These amendments were called "clarifying" by the Assembly Public Safety Committee.<sup>71</sup> Since the amendments are clarifying only, they do not increase the level of service required of local agencies.<sup>72</sup>

Thus, because the activities of emergency assistance, medical care, and transportation were already decided in the original *Domestic Violence* statement of decision and parameters and guidelines, the Commission has no jurisdiction over these activities in this claim.

Claimant's comments on the revised draft staff analysis state that claimant concurs with staff's analysis, and concurs that the program "may, in 2005-06 and subsequent fiscal years, impose additional reimbursable costs in providing emergency assistance to domestic violence victims as noted ... [in] staff's analysis." To clarify, the Commission does not find reimbursable costs for

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<sup>68</sup> Government Code, section 17557; California Code of Regulations, title 2, section 1183.2, subdivision (b).

<sup>69</sup> Government Code, section 17557; California Code of Regulations, title 2, section 1183.2, subdivision (c).

<sup>70</sup> See <<http://dictionary.reference.com/search?q=such%20as>> as of October 6, 2004.

<sup>71</sup> Assembly Public Safety Committee, Analysis of Assembly Bill No. 2172 (1997-98 Reg. Sess.) as introduced. Originally, the bill referred to "guaranteeing" safe passage away from the residence, but was later changed to "assisting." This bill was later double joined to Assembly Bill No. 2177 (Stats. 1998, ch. 702), which was enacted as to section 13701.

<sup>72</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 877.

emergency assistance in future fiscal years. Rather, should the Legislature not suspend<sup>73</sup> the *Domestic Violence* mandate (CSM-4222), the activities in the parameters and guidelines, as mentioned on pages 3 and 10 of this analysis, would be reimbursable.

Claimant also requested reimbursement for assisting children out of the residence, but this activity is not in the enacted version of the test claim statute that amended section 13701 (Stats. 1998, ch. 702, §§ 3.3 & 6). The last chaptered bill is assigned the higher chapter number,<sup>74</sup> which becomes law when legislative bills are double or triple-joined, as they were in this case.<sup>75</sup> Neither chapters 698 nor 701, which include the provision regarding assisting children, amended or became law as to Penal Code section 13701.<sup>76</sup> So the Commission finds that the test claim statute does not mandate assisting children out of the residence.

**Issue 5 – If the Commission finds a reimbursable state mandate in the test claim statute(s), does article XIII B, section 6, subdivision (b)(5), apply to this test claim?**

On November 2, 2004, the voters enacted Proposition 1A, which among other changes, adds subdivision (b) to article XIII B, section 6. Subdivision (b) states in relevant part:

(1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the

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<sup>73</sup> Proposition 1A, enacted in November 2004, among other changes, adds subdivision (b) to article XIII B, section 6 of the California Constitution, as follows:

[F]or the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

<sup>74</sup> See Government Code sections 9510 and 9605.

<sup>75</sup> Double-joined bills are two bills that propose to amend the same code section, drafted so that the amended bill does not override the provisions of the bill that affects the same section. In this case, section 6, subdivision (c) of Statutes 1998, chapter 702 states:

(c) Section 3.3 of this bill incorporates amendments to Section 13701 of the Penal Code proposed by this bill, AB 1201, and AB 2172. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1999, (2) all three bills amend Section 13701 of the Penal Code, and (3) this bill is enacted after AB 1201, [chapter 698] and AB 2172, [chapter 701] in which case Sections 3, 3.1, and 3.2 of this bill shall not become operative. [Emphasis added.]

<sup>76</sup> Statutes 1998, chapter 698, sections 2.1, 2.3 and 5. Statutes 1998, chapter 701, sections 2, 2.1, 2.2, 2.3 & 3.

mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2005-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law. [¶] ... [¶].

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section. [Emphasis added.]

Subdivision (b)(5) excludes specified types of mandates from the operation of subdivision (b). The portions of this test claim that the Commission finds to be reimbursable mandates, as listed below, do not apply to the "employment status of any local government employee or retiree, or any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment." Rather, they are merely new local government duties. Therefore, the Commission finds that subdivision (b)(5) does not apply to this test claim.

### CONCLUSION

Therefore, the Commission finds that section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program on local agencies within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514.

The Commission finds that the following activities are reimbursable.

- Providing victim cards to victims of the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship;<sup>77</sup> and (2) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child.<sup>78</sup> (§ 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (§ 13701, subd. (c)(9)(H)(i) & (iv)).

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<sup>77</sup> Penal Code section 243, subdivision (e).

<sup>78</sup> Penal Code section 273.5.

- The one-time cost of adding to the domestic violence response policy two new crimes (§§ 243, subd. (e), & 273.5) to those for which a victim card is given out (§ 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (§ 13701, subd. (c)(9)(H)(i) & (iv)).

The Commission also finds that all other amendments to the test claim statutes, as discussed above, do not constitute a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution.

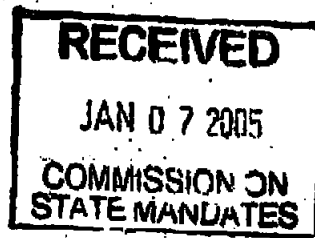




J. TYLER McCAULEY  
AUDITOR-CONTROLLER

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January 6, 2005

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Dear Ms. Higashi:

**Draft Parameters and Guidelines  
Penal Code Sections 264.2, 13701, and 13519  
Statutes of 1998, Chapters 698, 701 and 702  
Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]**

We submit the subject parameters and guidelines.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

J. Tyler McCauley  
Auditor-Controller

JTM:JN:LK  
Enclosures

**Draft Parameters and Guidelines - Narrative**  
**Penal Code Sections 264.2, 13701, and 13519**  
**Statutes of 1998, Chapters 698, 701 and 702**  
**Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]**

Narrative

The attached draft parameters and guidelines [Ps&Gs] closely follow the Statement of Decision for this test claim [CSM-98-TC-14] which was adopted by the Commission on State Mandates [Commission] on December 9, 2004.

In particular, the Commission found that the subject test claim legislation constitutes a reimbursable state-mandated program upon local governments, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, which includes:

- Providing victim cards to victims for the following crimes:  
(1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (section 264.2, subd.(a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

- The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd.(e), & 273.5) to those for which a victim card is given out (Section 13701, subd.(c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

Reimbursement of costs in implementing the test claim legislation is limited, in the attached draft Ps&Gs, to reasonably necessary costs in providing mandated victim assistance, printing, policy and related services.

#### Reasonable Reimbursement Methodology

Pursuant to Government Code section 17518.5, permitting the Commission to adopt a "reasonable reimbursement methodology", the following standard time and uniform cost allowances are proposed:

- I. A claimant may elect either to claim actual one-time printing, policy and related costs, as provided in the attached Ps&Gs, or claim such one-time costs using a uniform cost allowance as follows:
  - a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).
  - b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and

/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

- c. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

II. A claimant may elect either to claim actual continuing victim assistance costs, as provided in the attached Ps&Gs, or claim such continuing costs using a standard time. Unit costs must be claimed for each specified victim, based on a standard time of 10 minutes of a road officer's time - the time required to provide victim cards to victims for the following crimes:

(a) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship;

(b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (section 264.2, subd.(a)).

The standard time of 10 minutes is multiplied by the road officers' average productive hourly rate, including applicable indirect costs as specified in the attached Ps&Gs, and then multiplied by the total number of reported incidents regarding alleged violations [Penal Code sections 243(e) and 273.5].

The standard time of 10 minutes for a road officer to provide the required services is the same as the standard time used in the long-established parameters and guidelines [Ps&Gs] for the Rape Victim Counseling Center Notice program, adopted by the Commission on December 19, 1996 [1]. Under the Rape Victim Counseling Center Notice program, road officers provided the same type of victim assistance services in response to reported incidents regarding alleged violations of Penal Code sections 261, 261.5, 262, 286, 288(a), 289 as noted on page 3 of the State Controller's Office [SCO] claiming instructions [attached].

Regarding one-time costs, the uniform allowances proposed here are modest considering that the Rape Victim Counseling Center Notice program allows reprinting "Victims of Domestic Violence" cards each fiscal year [2]. Further, the one-time costs proposed here are reasonable considering that required information must not only be obtained but meticulously verified before dissemination. Otherwise, domestic violence victims could detrimentally rely on erroneous instructions.

#### Other Reimbursable Activities

As noted on page 22 of Commission's Statement of Decision [CSM-98-TC-14] for the Domestic Violence Arrests and Victim Assistance program, "... should the Legislature not suspend the *Domestic Violence* mandate (CSM-4222), the activities in the parameters and guidelines, as mentioned on pages 3 and 10 of this analysis, would be reimbursable". On pages 10-11 of this decision, the Commission indicates that CSM-4222 was suspended when the Legislature suspended Statutes of 1984, Chapter 1609. Accordingly, when Chapter 1609 [Statutes of 1984] is not suspended, the following services [3] under Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) are reimbursable:

- (subd. (c)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for

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1 See page 3 of the attached Ps&Gs for the Rape Victim Counseling Center Notice program  
2 See page 3 of the State Controller's Office [SCO] claiming instructions [attached].  
3 As detailed on page 10 of Commission's Statement of Decision [CSM-98-TC-14] for the Domestic Violence Arrests and Victim Assistance program

removing personal property and assistance in safe passage out of the victim's residence."

- (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229". "

The portions underlined above indicate the reimbursable activities that would become reimbursable as a result of the subject test claim legislation, not as a result of Statutes of 1984, Chapter 1609.

Accordingly, the above underlined reimbursable activities are included in the attached Ps&Gs as such activities are not itemized as reimbursable activities under the Ps&Gs for Statutes of 1984, Chapter 1609 [CSM-4222] ~~and~~ should Statutes of 1984, Chapter 1609 not be suspended by the Legislature.

Therefore, the Ps&Gs that follow here are reasonable, proper and limited to reimbursable activities in Commission's Domestic Violence Arrests and Victim Assistance Statement of Decision, adopted December 9, 2004.

**Draft Parameters and Guidelines**  
**Penal Code Sections 264.2, 13701, and 13519**  
**Statutes of 1998, Chapters 698, 701 and 702**  
**Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]**

**I. SUMMARY OF THE MANDATE**

The Commission on State Mandates [Commission] decided that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Statutes of 1998, Chapter 702), and section 264.2, subdivision (a) (as amended by Statutes of 1998, Chapter 698), impose a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes:  
(1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (section 264.2, subd.(a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out (Section 13701, subd. (c)(9)(H)).

- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

If the Legislature does not suspend the *Domestic Violence* mandate program (CSM-4222, Statutes of 1984, Chapter 1609), the activities, underlined below, pursuant to Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) are reimbursable:

- (subd. (c)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."
- (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229"."

## II. ELIGIBLE CLAIMANTS

The eligible claimants are any county, city, city and county, school district, or community college district.

## III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The subject test claim to recover law enforcement agency 'costs mandated by the State', as defined in Government Code Section 17514, was filed by the County of Los Angeles on May 21, 1999



and would have permitted the recovery of costs effective on and after July 1, 1997 had the test claim legislation been effective on that date. However, the test claim legislation [Chapter 698, Statutes of 1998 as joined with Chapter 701, Statutes of 1998 and Chapter 702, Statutes of 1998] was enacted on September 22, 1998 and became effective on January 1, 1999. Accordingly, reimbursement for local law enforcement costs begins on the test claim legislation's effective date of January 1, 1999 as this date is within the period specified in Government Code section 17557.

Actual costs, including those costs deemed to be actual costs under Government Code section 17518.5, for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial year's costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

#### **IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Supporting documents may include, but are not limited to, employee time records or time logs, sign-in sheets, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

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

##### **A. One-time Activities**

1. The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement

that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

2. The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd.(e), & 273.5) to those for which a victim card is given out (Section 13701, subd.(c)(9)(H)).
3. The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

#### B. Continuing Activities

1. Providing victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5; willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (section 264.2, subd.(a)).
2. When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services [5] under Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) as underlined below is reimbursable:

a. subd. (c)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."

b. (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, 'For information about the California victims' compensation program, you may contact 1-800-777-9229'."

## V. CLAIM PREPARATION AND SUBMISSION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate.

1. The following requirements govern claiming costs under the "reasonable reimbursement methodology" pursuant to Government Code Section 17518.5.

### One-time Costs

A claimant may elect either to claim actual one-time printing, policy and related costs, as provided herein, or claim such one-time costs using a uniform cost allowance:

a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a

person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

- c. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

### Continuing Costs

A claimant may elect either to claim actual continuing costs, as provided herein, or claim such continuing costs using a standard time. Unit costs must be claimed for each specified victim, based on a standard time of 10 minutes of a road officer's time – the time required to provide victim cards to victims for the following crimes:

(a) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship;

(b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (section 264.2, subd.(a)).

The standard time of 10 minutes is multiplied by the road officers' average productive hourly rate, including applicable indirect costs as specified in the attached Ps&Gs, and then multiplied by the total number of reported incidents regarding alleged violations [Penal Code sections 243(e) and 273.5].

2. The following requirements govern claiming costs under the actual cost methodology:

## A. Salaries and Benefits

Claimed reimbursement for employee costs should be supported by name, position, productive hourly rate, hours worked, fringe benefits amount and a brief description for the assigned unit and function relative to the mandate.

The source documents required to be maintained by the claimant may include, but are not limited to, employee time cards and/or cost allocation reports.

## B. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

The source documents required to be maintained by the claimant may include, but are not limited to, invoices, lease documentation and other documents evidencing the validity of the expenditure.

## C. Contracted Services

List costs incurred for contract services, including legal counsel for the development and operation of the mandated program and indirect costs, computed in accordance with OMB A-87 as described in Section V.G. [below], for administration of reimbursable contract[s]. Use of contract services must be justified by the claimant.

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and invoices with the claim and a description of the contract scope of services.

#### D. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

The source documents required to be maintained by the claimant may include, but are not limited to, contracts, charges, invoices, and statements.

#### E. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element V.A Salaries and Benefits, for each applicable reimbursable activity.

#### F. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element V.A., Salaries and Benefits, and V.B., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element V.C., Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.

## G. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include (1) the overhead costs of the unit performing the mandate or (2) the indirect costs of administering reimbursable contract(s), or (3) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of labor, excluding fringe benefits, or, where applicable, 10% of the amount of reimbursable contract(s), if 50% or more of all reimbursable services are provided under contract, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B).

## VI. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.

However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING SAVINGS AND REIMBURSEMENTS**

Any offsetting savings that the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform with the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions to conform to the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.



In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and the California Code of Regulations, title 2, section 1183.2.



**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CALIFORNIA 90012-2768  
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

**Draft Parameters and Guidelines  
Penal Code Sections 264.2, 13701, and 13519  
Statutes of 1998, Chapters 698, 701 and 702  
Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]**

**Declaration of Leonard Kaye**

Leonard Kaye makes the following declaration and statement under oath:

I Leonard Kaye, SB 90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analysis, and for proposing parameters and guidelines (P's & G's) and amendments thereto, and for preparing filings pursuant to Commission's reconsideration of its prior decisions, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject parameters and guidelines and attachments thereto.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs in the light of Commission's Statement of Decision [CSM-98-TC-14] and find that such costs as set forth in the attached parameters and guidelines and supporting documents, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975; which mandates 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."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

1/05/05; Los Angeles, CA  
Date and Place

Leonard Kaye  
Signature



**STEVE WESTLY**

**California State Controller**

Division of Accounting and Reporting

**RECEIVED**

MAR 01 2005

**COMMISSION ON  
STATE MANDATES**

February 8, 2005

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

RE: DRAFT PARAMETERS AND GUIDELINES  
DOMESTIC VIOLENCE ARRESTS AND VICTIM ASSISTANCE  
STATUTES 1998, CHAPTERS 698, 701, AND 702

Dear Ms. Higashi:

We have reviewed the draft Parameters and Guidelines (P's & G's) submitted by the County of Los Angeles for the above-referenced subject matter, and have included an enclosure that recommends some changes to the draft P's & G's.

We suggest a pre-hearing conference and request the claimant's attendance to discuss the draft P's & G's, particularly the claimant's analyses regarding the issues of the uniform time and cost allowances.

If you have any questions, please contact Ginny Brummels, Manager of the Local Reimbursements Section, at (916) 324-0256.

Sincerely,

JOHN A. KORACH, Chief  
Division of Accounting and Reporting

JAK:glb

Attachment

cc: Interested parties

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250  
STREET ADDRESS 3301 C Street, Suite 500, Sacramento, CA 95816

**Draft Parameters and Guidelines  
Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]  
Statutes 1998, Chapters 698, 701, and 702**

**I. SUMMARY OF THE MANDATE**

The Commission on State Mandates [Commission] decided that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Statutes of 1998, Chapter 702), and section 264.2, subdivision (a) (as amended by Statutes of 1998, Chapter 698), impose a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims ~~for~~ of the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, ~~of or fiancée~~ fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and (2) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (sSection 264.2, subd.(a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines or battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out (Section 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

The corrections above are to match the text of the activities to the Commission's Statement of Decision.

If the Legislature does not suspend the *Domestic Violence* mandate program (CSM 4222, Statutes of 1984, Chapter 1609), the activities, underlined below, pursuant to Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) are reimbursable:

- ~~“(subd. (c)(7)): Include standards for “Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim’s residence.”~~

Per the Statement of Decision, the Commission has already made a finding of these activities in the *Domestic Violence* parameters and guidelines, CSM-4222 (1987). Therefore, the Commission has no jurisdiction over this activity for purposes of this test claim. Further, the additional underlined provisions above follow the “such as...” examples of the original test claim statute. The Commission considers these as “clarifying” amendments, and, as such, they do not increase the level of service required of local agencies.

- ~~“(subd. (c)(9)(D)): Include in written information given to the victim “A statement that, “For information about the California victims’ compensation program, you may contact 1-800-777-9229.”~~

Per the Statement of Decision (Decision), the Commission found that reimbursement is not required of this activity. The analysis of the Decision found that claimant incurred costs for this one-time activity between January 1, 1999, and June 30, 1999, when the suspension was in effect and the state did not mandate the activities. Therefore, there is no evidence in the record that the activity of adding victim assistance information and information about the victims compensation program, as required by Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D), to the domestic violence response policy resulted in costs mandated by the state, within the meaning of Government Code section 17514, to the claimant or any other local agency.

#### Non-reimbursable Activities

- (subd. (c)(7)): Include standards for “Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for

removing personal property and assistance in safe passage out of the victim's residence."

- (subd. (c)(9)(D)): Include in written information given to the victim "A statement that: "For information about the California victims' compensation program, you may contact 1-800-777-9229"."

Per the reasons stated above, this re-categorization of the above activities is for clarification that they are not reimbursable.

## II. ELIGIBLE CLAIMANTS

The eligible claimants are any county, city, city and county, ~~school district, or community college district.~~

Per the Statement of Decision, eligible claimants are local agencies.

## IV. REIMBURSABLE ACTIVITIES

### B. Continuing Activities

1. Providing victim cards to victims for of the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, ~~or fiancée~~ fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and (2) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (Section 264.2, subd. (a)).

Corrections above are to match the text of the activities to the Statement of Decision's.

- ~~2. When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services [5] under Penal Code section 13701, subd. (e)(7) and Penal Code section 13701, subd. (e)(9)(D) as underlined below is reimbursable:~~

- ~~a. subd. (e)(7): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a~~

~~hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."~~

- b. ~~(subd. (c)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-0220" "~~

Per the Statement of Decision and the reasons stated earlier, the above are not reimbursable activities in this test claim.

## V. CLAIM PREPARATION AND SUBMISSION

### One-time Costs

A claimant may elect either to claim actual one-time printing, policy and related costs, as provided herein, or claim such one-time costs using a uniform cost allowance:

- a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).
- b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

For items a. and b. above, claimant needs to provide an analysis to substantiate the \$300 and \$600 one-time cost allowances. If the cost allowance method is to be used, and it is determined to be a reasonable estimation of actual costs, then what would the need for the actual cost method? We suggest that only one method be used for consistency.

- c. ~~\$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-~~

~~women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).~~

Item c. is a duplicate of item a. above.

### Continuing Costs

A claimant may elect either to claim actual continuing costs, as provided herein, or claim such continuing costs using a standard time. Unit costs must be claimed for each specified victim, based on a standard time of 10 minutes of a road officer's time -- the time required to provide victim cards to victims for the following crimes:

(a) Penal eCode section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, ~~of or fiancée~~ fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship;

(b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (~~s~~Section 264.2, subd. (a)).

Corrections to (a) and (b) above are for clarification only.

The standard time of 10 minutes is multiplied by the road officers' average productive hourly rate, including applicable indirect costs as specified in the attached P's&G's, and then multiplied by the total number of reported responses to incidents regarding alleged violations of ~~[-~~Penal Code sections 243(e) and 273.5~~]~~.

Corrections above are for clarifications only. Additionally, claimant needs to provide analysis to substantiate the 10 minutes unit cost. And, if the unit cost method is approved as the reasonable reimbursement methodology, then reimbursement should be limited to this method and not to actual costs as well. We suggest one method be used for consistency.

2. The following requirements govern claiming costs under the actual cost methodology:

#### F. Training



Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element V.A., Salaries and Benefits, and V.B., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of element V.C., Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.

The Statement of Decision did not approve training as a reimbursable activity. Training is a separately identifiable activity from the implementation of the reimbursable activities approved in the Statement of Decision that it needs to be addressed by the Commission.

**PROOF OF SERVICE BY MAIL**

CSM – 98-TC-14

I, the undersigned, declare as follows:

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of 18 years and not a party to the within action. My place of employment and business address is 3301 C Street, Suite 500, Sacramento, California 95816.

On February 23, 2005, I served the attached recommendation of the State Controller's Office by placing a true copy thereof enclosed in a sealed envelope addressed to each of the persons named below at the addresses shown and by depositing said envelopes in the United States mail at Sacramento, California, with postage thereon fully prepaid.

Ms. Ginny Brummels  
State Controller's Office (B-08)  
Division of Accting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Mr. Allan Burdick  
Maximus, Inc.  
4320 Auburn Blvd, Suite 2000  
Sacramento, CA 95841

Ms. Annette Chinn  
Cost Recovery Systems  
705-2 East Bidwell Street, #294  
Folsom, CA 95630

Ms. Susan Geanacou  
Department of Finance (A-15)  
915 L Street, Suite 1190  
Sacramento, CA 95814

Ms. Beth Hunter  
Centration, Inc.  
8316 Red Oak Street, Suite 101  
Rancho Cucamonga, CA 91730

Mr. John Isaacson  
Office of Emergency Services  
Criminal Justice Programs Division  
P.O. Box 419047  
Rancho Cordova, CA 95741-9047

Mr. Jim Jagers  
Centration, Inc.  
12150 Tributary Point Drive, Suite 140  
Gold River, CA 95670

Mr. Leonard Kaye, Esq.  
County of Los Angeles  
Auditor-Controller's Office  
500 W. Temple Street, Room 603  
Los Angeles, CA 90012

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor/Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

Ms. Jesse McGuinn  
Department of Finance (A-15)  
915 L Street, 8<sup>th</sup> Floor  
Sacramento, CA 95814

Mr. Paul Minney  
Spector, Middleton, Young & Minney, LLP  
7 Park Center Drive  
Sacramento, CA 95825

Mr. Paul Seave  
Attorney General's Office  
Crime & Violence Prevention Center  
1300 I Street, Suite 1120  
Sacramento, CA 95814

Mr. Steve Smith  
Steve Smith Enterprises, Inc.  
4633 Whitney Avenue, Suite A  
Sacramento, CA 95821

Mr. David Wellhouse  
David Wellhouse and Associates, Inc.  
9175 Kiefer Blvd, Suite 121  
Sacramento, CA 95826

Mr. Kenneth O'Brien  
Commission on Peace Officers Standards  
and Training  
Administrative Services Division  
1601 Alhambra Blvd.  
Sacramento, CA 95816-7083

Mr. Steve Shields  
Shields Consulting Group, Inc.  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

Mr. Jim Spano  
State Controller's Office (B-08)  
Division of Audits  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

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

Executed on February 23, 2005, at Sacramento, California.

---

Glenn Holderbein



**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

PHONE: (916) 323-3662

FAX: (916) 445-0278

E-mail: csminfo@csm.ca.gov



January 27, 2006

Mr. Leonard Kaye  
Office of the Auditor-Controller  
County of Los Angeles  
500 West Temple Street, Room 525  
Los Angeles, CA 90012-2766

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

Re: **Request for Justification of Proposed Reasonable Reimbursement Methodology**  
**Proposed Parameters and Guidelines**  
**Domestic Violence Arrests and Victim Assistance, 98-TC-14**  
County of Los Angeles, Claimant  
Penal Code Sections 264.2, 13519, and 13701  
Statutes 1998, Chapters 698, 701, and 702

Dear Mr. Kaye:

The County of Los Angeles submitted its proposed parameters and guidelines on January 7, 2005, to include the following proposed reimbursement methodology:

- **\$300** for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- **\$600** allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- A standard time of **10 minutes** for a road officer's time to provide victim cards to victims for the following crimes: (a) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and (b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (Pen. Code, § 264.2, subd. (a)).

Mr. Leonard Kaye

Page 2

However, as noted by the State Controller's comments dated February 8, 2005, the claimant does not substantiate its proposed unit costs and unit time. Therefore, staff requests that the County of Los Angeles submit written evidence, such as a valid time or cost study, to substantiate its proposed reimbursement methodology and demonstrate that it is representative of all counties in the state. This supplemental filing is due on **March 17, 2006**.

**Prehearing Conference.** A prehearing conference is tentatively scheduled for Wednesday, **March 29, 2006**, at the offices of the Commission on State Mandates at 2:00 p.m. or immediately following the Commission hearing to discuss the claimant's proposal. A formal notice will be issued at least 10 days before the prehearing.

Please contact Cathy Cruz at (916) 323-8218 if you have any questions.

Sincerely,



**NANCY PATTON**  
Assistant Executive Director

MAILED: Mail List / FAXRD: \_\_\_\_\_  
DATE: 4/10/06 / INITIAL: LD  
CHRON: \_\_\_\_\_  
WORKING BINDER: \_\_\_\_\_

Commission on State Mandates

Original List Date: 11/17/2003  
Last Updated: 1/10/2008  
List Print Date: 01/27/2008  
Claim Number: 98-TC-14  
Issue: Domestic Violence Arrests and Victim Assistance

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Mr. Kenneth J. O'Brien  
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Ms. Ginny Brummeis  
State Controller's Office (B-08)  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

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---

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor/Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

Tel: (909) 386-8850

Fax: (909) 386-8830



**COMMISSION ON STATE MANDATES**

880 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

PHONE: (916) 323-3582

FAX: (916) 445-0278

E-mail: csminfo@csm.ca.gov



March 17, 2006

Mr. Leonard Kaye  
County of Los Angeles  
Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 525  
Los Angeles, CA 90012-2766

*And Affected State Agencies and Interested Parties (See Enclosed Mail List)*

Re: **Prehearing Notice and Request for Extension of Time**  
Proposed Parameters and Guidelines  
*Domestic Violence Arrests and Victim Assistance, 98-TC-14*  
County of Los Angeles, Claimant  
Penal Code Sections 264.2, 13519, and 13701  
Statutes 1998, Chapters 698, 701, and 702

Dear Mr. Kaye:

Your request for an extension of time to submit written evidence to substantiate your proposed reimbursement methodology and demonstrate that it is representative of all counties in the state is approved for good cause. Your comments are now due on or before **April 7, 2006**.

**Prehearing Conference.** A prehearing conference is scheduled for Tuesday, **April 25, 2006**, at the offices of the Commission on State Mandates at 2:00 p.m. to discuss the claimant's proposal.

**Hearing**

This matter is tentatively set for hearing on **May 25, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**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.

Please contact Cathy Cruz at (916) 323-8218 if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Nancy Patton".

NANCY PATTON

Assistant Executive Director

cc: Mailing list

MAILED: \_\_\_\_\_  
FAXED: \_\_\_\_\_  
DATE: 2/17/00  
INITIAL: LD  
CHRON: \_\_\_\_\_  
FILE: \_\_\_\_\_  
WORKING BINDER: \_\_\_\_\_

### Mailing List

**Claim Number:** 98-TC-14  
**Subject:** Domestic Violence Arrests and Victims Assistance

Mr. Steve Shields  
 Shields Consulting Group, Inc.  
 1536 36<sup>th</sup> Street  
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 Centration, Inc.  
 8570 Utica Ave., Suite 100  
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 David Wellhouse & Associates, Inc.  
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Mr. Allan Burdiok  
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Mr. John Isaacson  
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Mr. Steve Smith, CEO  
 Steve Smith Enterprises, Inc.  
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Ms. Paula Higashi  
 Executive Director  
 Commission on State Mandates  
 980 Ninth Street, Suite 300  
 Sacramento, California 95814

Mr. Jim Spano,  
 State Controller's Office  
 Division of Audits  
 300 Capitol Mall, Suite 518  
 Sacramento, California 95814

Ms. Annette Chinn,  
 Cost Recovery Systems  
 705-2 East Bidwell Street #294  
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Mr. Kenneth J. O'Brian  
 Commission on Peace Officers Standards & Training  
 Administrative Services Division  
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Mr. Paul L. Seave  
 Attorney General's Office  
 Crime & Violence Prevention Center  
 1300 I Street, Suite 1120  
 Sacramento, CA 95814

Ms. Susan Geanancou  
 Department of Finance (A-15)  
 915 L Street, Suite 1190  
 Sacramento, CA 95814

Post-It® Fax Note	7671	Date	3/16/06	Rec'd Page #	5
To	Paula Higashi	From	Leonard Kays		
Dist/Dept	CM	Co			
Phone #		Phone #	916-977-8764		
Fax #	916-485-0278	Fax #			

### Mailing List

**Claim Number:** 98-TC-14  
**Issue:** Domestic Violence Arrests and Victims Assistance

Ms. Ginny Brummels  
State Controller's Office(B-08)  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor-Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

SM Mailing List Crime Victim's 5/23/03

**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CALIFORNIA 90012-2766  
PHONE: (213) 974-8301 FAX: (213) 626-5427



J. TYLER MCCAULEY  
AUDITOR-CONTROLLER

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Haasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 15 day of March, 2006, I served the attached:

Documents: Extension of Time Request, Pre-Hearing Conference, County of Los Angeles Test Claim, CSM -98-TC-14, Domestic Violence Arrests and Victim Assistance, including a 1 page letter of J. Tyler McCauley dated 3/15/06 and 1 page attachment, now pending before the Commission on State Mandates.

upon all Interested Parties listed on the attachment hereto and by

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date. Commission on State Mandates FAX as well as mail of originals.
- by placing [ ] true copies [ ] original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

**PLEASE SEE ATTACHED MAILING LIST**

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

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

Executed this 15th day of March, 2006, at Los Angeles, California.

Haasmik Yaghobyan



**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 825  
LOS ANGELES, CALIFORNIA 90012-2788  
PHONE: (213) 974-8301 FAX: (213) 628-5427

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

March 15, 2006

Ms. Paula Highashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Dear Ms. Highashi:

**Extension of Time Request  
Pre-hearing Conference Request  
County of Los Angeles Test Claim, CSM-06-TC-14  
Domestic Violence Arrests and Victim Assistance**

An extension of time to respond to the Commission on State Mandates' [Commission] comments on the subject claim is requested pursuant to Section 1183.01(c)(1) of the Commission's regulations. Justification for an extension of time from March 17, 2006 to April 7, 2006 is attached. A pre-hearing conference on this matter is requested for April 25, 2006 at 2:00 p.m. in the Commission's Office.

Leonard Kaye of my staff is available at (213) 974-8584 to answer questions you may have concerning this submission.

Very truly yours,

J. Tyler McCauley  
Auditor-Controller

JTM:CY:LK:hy  
Enclosures

*"To Enrich Lives Through Effective and Caring Service"*



**Justification**  
**Pre-hearing Conference Request**  
**Extension of Time Request [Section 1163.01(c)(1)]**  
**County of Los Angeles Test Claim, CSM-98-TC-14**  
**Domestic Violence Arrests and Victim Assistance**

An extension of time from March 17, 2006 to April 7, 2006 is necessary in order to respond to the Commission on State Mandates [Commission] letter dated January 27, 2006, requesting that the County of Los Angeles [County] submit written evidence, such as a valid time or cost study, to substantiate the County's proposed reimbursement methodology and demonstrate that it is representative of all counties in the state.

The additional time is needed to meet and confer with subject matter experts to identify specific measurable activities reasonably necessary in providing victims of specified crimes with domestic violence card information detailed in the test claim legislation.

Also, more time is needed to develop a standard time methodology in the absence of specific methodologies adopted or endorsed by the Commission.

Finally, more time is required to draft a Statewide cost survey to allow other jurisdictions, whose methods and procedures may vary from ours, an opportunity to participate in a Statewide cost analysis.

We therefore request an extension of time from March 17, 2006 to April 7, 2006 in order to file the [above] information with the Commission. We also request a pre-hearing conference on this subject for State and local law enforcement agencies on or about April 25, 2006 at 2 pm in the Commission's office.



Original List Date: 11/17/2003  
 Last Updated: 2/1/2006  
 List Print Date: 03/16/2006  
 Claim Number: 98-TC-14  
 Issue: Domestic Violence Arrests and Victim Assistance

Mailing Information: Other

**Mailing List**

**TO ALL PARTIES AND INTERESTED PARTIES:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

- 
- |   |  |
|---|--|
| Ms. Annette Chinn<br>Cost Recovery Systems, Inc.<br>705-2 East Bidwell Street, #294<br>Folsom, CA 95630 | Tel: (916) 939-7901<br><br>Fax: (916) 939-7801 |
|---|--|
- 
- |   |  |
|---|--|
| Mr. Allan Burdick<br>MAXIMUS<br>4320 Auburn Blvd., Suite 2000<br>Sacramento, CA 95841 | Tel: (916) 485-8102<br><br>Fax: (916) 485-0111 |
|---|--|
- 
- |   |  |
|---|--|
| Mr. Leonard Kaya, Esq.<br>County of Los Angeles<br>Auditor-Controller's Office<br>500 W. Temple Street, Room 603<br>Los Angeles, CA 90012 | Claimant<br>Tel: (213) 974-8564<br><br>Fax: (213) 617-8108 |
|---|--|
- 
- |  |  |
|--|--|
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|--|--|
- 
- |  |  |
|--|--|
| Mr. Jim Spáno<br>State Controller's Office (B-08)<br>Division of Audits<br>300 Capitol Mall, Suite 518<br>Sacramento, CA 95814 | Tel: (916) 323-5849<br><br>Fax: (916) 327-0832 |
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- |  |  |
|--|--|
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**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CALIFORNIA 90012-2768  
PHONE: (213) 974-8301 FAX: (213) 826-5427

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

April 4, 2006

Ms. Paula Highashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Dear Ms. Highashi:

**Proposed Reimbursement Methodology  
County of Los Angeles Test Claim, CSM-98-TC-14  
Domestic Violence Arrests and Victim Assistance**

We submit the supplemental information requested by Commission staff to support our proposed reimbursement methodology for the subject reimbursement program. We believe that our pre-hearing conference scheduled for April 25, 2006 will provide State agency staff and potential claimants with an opportunity to assess application of our methodology on a Statewide basis.

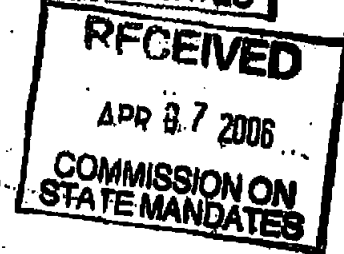
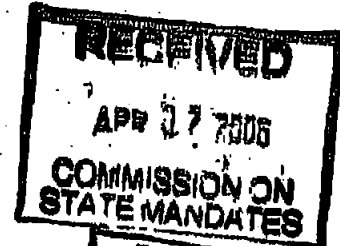
Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

*John Naimo* FOR

J. Tyler McCauley  
Auditor-Controller

JTM:CY:LK  
Enclosures



**Proposed Reimbursement Methodology**  
**County of Los Angeles Test Claim, CSM-98-TC-14**  
**Domestic Violence Arrests and Victim Assistance**

This submittal is in response to the January 27, 2006 Commission on State Mandates [Commission] request that the County of Los Angeles [County] "submit written evidence to substantiate [the County's] proposed reimbursement methodology [for the Domestic Violence Arrests and Victim Assistance reimbursement program] and demonstrate that it is representative of all counties in the state...".

In order to provide State agency staff and potential claimants with an opportunity to assess application of the County's proposed reimbursement methodology on a Statewide basis, a pre-hearing conference has been scheduled for April 25, 2006 at the Commission's office.

**Standard Time**

In order to substantiate the County's minimum standard performance time<sup>1</sup> of ten minutes per victim response, which was previously included in County's draft Ps&Gs filed with the Commission on January 6, 2005, the County now submits a protocol which details specific activities reasonably necessary in implementing the test claim legislation.

The County's protocol for the delivery of the 'victims of domestic violence card' services is attached as Exhibit A to the enclosed declaration of County Sheriff's deputy, Suzanne Palmer Ferrell.

Ms. Ferrell, who serves as the County Sheriff's Domestic Violence Liaison, declares that providing 'victims of domestic violence card' services, requires different delivery scenarios and necessary courses of action --- depending on the victim's circumstances. Specifically, on pages 4-6 of her declaration, Ms. Ferrell indicates that:

---

<sup>1</sup> It should be noted that the performance time may be significantly greater than 10 minutes for other jurisdictions and so a greater time may be required in accordance with the 'reasonable reimbursement methodology' requirement, under Government Code section 17518.5(a)(2), which mandates that "[f]or 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner".



“3. When handing the victim the card, the deputy must explain what the card is and how to use it.

- The deputy must obtain the victim's attention. This is not an easy task. Given the emotional nature of the situation, the victim is usually upset and has difficulty concentrating and/or calming down. If there is an arrest of the batterer or other type of action, this may divert the victim's attention further extending the period of time to explain the card to the victim.
- The deputy will explain what is on the card (the phone numbers and the file number) and how the victim could use the card. One way to ensure that the victim is absorbing the information is to have the victim repeat what the deputy has just said.
- The deputy must be sympathetic, understanding, and not rush the explanation as this will cause the victim to not understand the card and/or forget about the card altogether.
- If the deputy is sympathetic, understanding, and explains the card in a slow and concise manner, the victim may not remember everything the deputy said, but they should remember that the card is available.

4. Common questions which the deputy must be prepared to address are:

- "How long will he be in jail?" - important because the victim wants to know how long until he comes home.
- "Do shelters allow kids?"
- "Do I have to go to the shelter right now, or can I wait and go later?"
- "Will the shelter protect me?"
- "Is there a shelter close to my house or a relative's house?"
- "Will the shelter let me go to work and my kids to school?"

5. Victims who are deaf, blind, or speak certain languages may require information concerning disability-specific shelters or language-specific shelters such as Spanish, Cantonese, and Mandarin.

- The officer, in these cases, helps direct these victims to the most appropriate shelter.
- The officer, in these cases, uses an interpreter at the scene to communicate with the victim whether it is a language or special needs such as deafness.
- If the officer does not speak the victim's language, a fellow deputy, a non-interested party, or a Watch Desk is contacted and an interpreter is used via the phone on a three or four way call. Family members are not used to interpret for the officer."

Further, Ms. Ferrell, on page 4 of her declaration, describes other duties, which the responding officer must perform to implement the test claim legislation, as follows:

"1. The deputy shall obtain the card. The card is usually kept in the deputy's patrol bag which is stored in the trunk of the deputy's patrol vehicle.

2. Before the card is given to the victim, the deputy must obtain a file number from the deputy's MDT (Mobile Digital Terminal) which is located in his/her patrol vehicle.

- The deputy must enter the following information into the MDT
  - Officer's last name
  - Officer's ID number
  - Retention number
  - Report District
  - Statistical Code
  - Report Form Type
  - Name associated with event (last, first, middle, suf)
  - Sex
  - Race

Once the above information is entered into the MDT, the MDT file number will appear on the MDT screen. The deputy shall write this file number and his/her last name on the card."

Accordingly, Ms. Ferrell finds, on page 2 of her declaration, that "... the minimum times to perform the necessary activities, identified in the protocol, attached as Exhibit A, is 10 minutes".

#### Established Standard

It should be noted that the standard time of 10 minutes for a road officer to provide the required services claimed herein is the same as the established standard time used in the current parameters and guidelines [Ps&Gs] for the Rape Victim Counseling Center Notice program, adopted by the Commission on December 19, 1996 [2].

Under the Rape Victim Counseling Center Notice program, road officers provide the same type of victim assistance services as claimed herein but in response to different types of reported incidents regarding alleged violations of Penal Code sections 261, 261.5, 262, 286, 288(a), 289 as noted on page 3 of the State Controller's Office [SCO] claiming instructions.

#### Evidentiary Record

Accordingly, there is evidence now in the record in this matter which supports a Commission finding of a ten minute minimum performance time per victim response in:

"Providing victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant,

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<sup>2</sup> See page 3 of the Ps&Gs for the Rape Victim Counseling Center Notice program, attached to County's January 6, 2005 draft Ps&Gs filing with the Commission.

former cohabitant, or the mother or father of his or her child.  
(section 264.2, subd.(a)).”<sup>3</sup>

Of course, the evidentiary record is still open and law enforcement officials from other jurisdictions may report at the April 25, 2006 pre-hearing conference on this matter that their performance time is significantly greater than ten minutes, or not. If not, the ten minute standard should continue to be the standard in these cases.

### One-time Costs

Regarding the one-time reimbursable costs of revising and printing the ‘victims of domestic violence card’ and adding statements to the victim response policy, Glen Dragovich, Assistant Division Director of Administrative Services of the Los Angeles County Sheriff’s department, indicates on page 2 of his declaration, attached hereto, that:

“... one-time reimbursable costs of \$600 will be incurred to:

Revise and print victim cards to add the following new information: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

--- one-time reimbursable costs of \$300 will be incurred to add statements in the response policy.

Mr. Dragovich’s cost findings are based, in part, on the findings of Ms. Ferrell, who indicates on page 2 of her declaration, that:

“ ... in order to update the card pursuant to the test claim legislation, I am required to verify each facility and phone

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<sup>3</sup> As stated in the Statement of Decision for this test claim [CSM-98-TC-14], as adopted by the Commission on December 9, 2004.

number to ensure that the shelter is open and the phone number is still good.

... in order to update the card pursuant to the test claim legislation, I am required to find out if additional shelters have opened since the last update of the card.

... based on my experience, education and training ... the time necessary to add the statements in the response policy as set forth in Penal Code section 13701(c)(7) is two hours.

... based on my experience, education and training ... the time necessary to add the contact information to the response policy as set forth in Penal Code section 13701(c)(9)(D) is four hours.

... based on my experience, education and training ... the time necessary to amend the victim card provision in the response policy and revise the cards for reprinting as set forth in Penal Code section 13701(c)(9)(H) is three hours."

Therefore, written evidence substantiating the County's proposed reimbursement methodology for the Domestic Violence Arrests and Victim Assistance reimbursement program is herein submitted.

## Attachments

**Proposed Reimbursement Methodology  
County of Los Angeles Test Claim, CSM-98-TC-14  
Domestic Violence Arrests and Victim Assistance**

	<u>Pages</u>
Declaration of Suzanne Palmer Ferrell .....	1 - 3
Exhibit A – Protocol .....	4 - 6
Declaration of Glen Dragovich .....	7 - 9
Declaration of Leonard Kaye .....	10

COUNTY OF LOS ANGELES  
Sheriff's Department  
4700 Ramona Boulevard  
Monterey Park, CA 91754  
(323)536-5760

Parameters and Guidelines Supplement  
Penal Code Sections 264.2, 13701, 13519  
Statutes of 1998, Chapters 698, 701, 702

Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]

Declaration of SUZANNE PALMER FERRELL

Suzanne Palmer Ferrell makes the following declaration and statement under oath:

I, Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison, Sheriff's Department, County of Los Angeles, am responsible for developing and disseminating methods and procedures to comply with new State-mandated requirements in responding to domestic violence incidents, including requirements imposed under the subject test claim legislation.

I declare that I have met and conferred with patrol officers experienced in providing the information required by the test claim legislation.

I declare that I have developed a protocol, attached in Exhibit A, which includes only specific activities which are reasonably necessary in:

- Providing victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (section 264.2, subd.(a)).

- **Printing victim cards to add the following new information:**  
(1) phone numbers and /or local county hotlines of battered-person shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

I declare that it is my information and belief that based on my experience, education and training that the minimum time to perform the necessary activities, identified in the protocol, attached as Exhibit A, is 10 minutes.

I declare that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to verify each facility and phone number to ensure that the shelter is open and the phone number is still good.

I declare that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to find out if additional shelters have opened since the last update of the card.

I declare that it is my information and belief that based on my experience, education, and training that the time necessary to add the statements in the response policy as set forth in Penal Code section 13701(c)(7) is two hours.

I declare that it is my information and belief that based on my experience, education, and training that the time necessary to add the contact information to the response policy as set forth in Penal Code section 13701(c)(9)(D) is four hours.

I declare that it is my information and belief that based on my experience, education, and training that the time necessary to amend the victim card provision in the response policy and revise the cards for reprinting as set forth in Penal Code section 13701(c)(9)(H) is three hours.



I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and to those matters, I believe them to be true.

3/31/06 Monterey Park, CA.  
Date and Place

*[Handwritten Signature]*  
Signature

## **Exhibit A**

### **Protocol for Delivery of the "Victims Domestic Violence Card"**

The card is given to the victim after a domestic violence incident has occurred. The card must be physically handed and explained to the victim.

1. The deputy shall obtain the card. The card is usually kept in the deputy's patrol bag which is stored in the trunk of the deputy's patrol vehicle.
2. Before the card is given to the victim, the deputy must obtain a file number from the deputy's MDT (Mobile Digital Terminal) which is located in his/her patrol vehicle.

- The deputy must enter the following information into the MDT

- Deputy's last name
- Deputy's ID number
- Retention number
- Report District
- Statistical Code
- Report Form Type
- Name associated with event (last, first, middle, suf)
- Sex
- Race

- Once the above information is entered into the MDT, the MDT file number will appear on the MDT screen. The deputy shall write this file number and his/her last name on the card.

3. When handing the victim the card, the deputy must explain what the card is and how to use it.

- The deputy must obtain the victim's attention. This is not an easy task. Given the emotional nature of the situation, the victim is usually upset and has difficulty concentrating and/or calming down. If there is an arrest of the batterer or other type of action, this may divert the victim's attention further extending the period of time to explain the card to the victim.
- The deputy will explain what is on the card (the phone numbers and the file number) and how the victim could use the card. One way to ensure that the victim is absorbing the information is to have the victim repeat what the deputy has just said.
- The deputy must be sympathetic, understanding, and not rush the explanation as this will cause the victim to not understand the card and/or forget about the card altogether.
- If the deputy is sympathetic, understanding, and explains the card in a slow and concise manner, the victim may not remember everything the deputy said, but they should remember that the card is available.

4. Common questions which the deputy must be prepared to address are:

- "How long will they be in jail?" - important because the victim wants to know how long until he comes home.
- "Do shelters allow kids?"
- "Do I have to go to the shelter right now, or can I wait and go later?"
- "Will the shelter protect me?"
- "Is there a shelter close to my house or a relative's house?"
- "Will the shelter let me go to work and my kids to school?"

5. Victims who are deaf, blind, or speak certain languages may require information concerning disability-specific shelters or language-specific shelters such as Spanish, Cantonese, and Mandarin.

- The officer, in these cases, helps direct these victims to the most appropriate shelter.
- The officer, in these cases, uses an interpreter at the scene to communicate with the victim whether it is a language or special needs such as deafness.
- If the officer does not speak the victim's language, a fellow deputy, a non-interested party, or a Watch Desk is contacted and an interpreter is used via the phone on a three or four way call. Family members are not used to interpret for the officer.



LEROY D. BACA, SHERIFF

**County of Los Angeles**  
**Sheriff's Department Headquarters**  
4700 Ramona Boulevard  
Monterey Park, California 91754-2169



**Parameters and Guidelines Supplement**  
**Penal Code Sections 264.2, 13701, 13519**  
**Statutes of 1998, Chapters 698, 701, 702**

**Domestic Violence Arrests and Victim Assistance [CSM-98-TC-14]**

**Declaration of Glen Dragovich**

Glen Dragovich makes the following declaration and statement under oath:

I, Glen Dragovich, Assistant Division Director of Administrative Services of the Los Angeles County [County] Sheriff's department, am responsible for recovering County costs incurred in complying with State mandated programs such as the County's Domestic Violence Arrests and Victim Assistance program.

I declare that it is my information and belief that continuing reimbursable costs under the subject program are well in excess of \$1,000 per annum for the County of Los Angeles, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

I declare that it is my information and belief that continuing reimbursable will be incurred to:

Provide victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with whom the defendant has, or previously had, a dating or engagement relationship;

previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child. (Section 264.2, subd.(a)).

I declare that it is my information and belief that one-time reimbursable cost of \$600 will be incurred to:

Revise and print victim cards to add the following new information: (1) phone numbers and /or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd.(c)(9)(H)(i) & (iv)).

I declare that it is my information and belief that one-time reimbursable costs of \$300 will be incurred to add statements in the response policy.

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject program require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

"' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates 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."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

3/30/06 Monterey Park, CA

Date and Place

*Man Deyoung*

Signature



**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
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PHONE: (213) 874-8301 FAX: (213) 626-5427

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

**Proposed Reimbursement Methodology  
County of Los Angeles Test Claim, CSM-98-TC-14  
Domestic Violence Arrests and Victim Assistance**

**Declaration of Leonard Kaye**

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB 90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analysis, and for proposing parameters and guidelines (P's & G's) including 'reasonable reimbursement methodologies' and amendments thereto, and for preparing filings pursuant to Commission's reconsideration of its prior decisions, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject proposed reimbursement methodology filing attached hereto.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs in the light of Commission's deliberations on the Ps&Gs for the Statement of Decision [CSM-98-TC-14] and find that such costs as set forth in the attached filing, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates 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."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

4/4/06; Los Angeles, CA  
Date and Place

  
Signature



COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CALIFORNIA 90012-2766  
PHONE: (213) 974-8301 FAX: (213) 626-5427



J. TYLER McCAULEY  
AUDITOR-CONTROLLER

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Hasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 4th day of April, 2006, I served the attached:

Documents: Proposed Reimbursement Methodology, County of Los Angeles Test Claim, CSM -98-TC-14, Domestic Violence Arrests and Victim Assistance, including a 1 page letter of J. Tyler McCauley dated 4/4/06, a 7 page narrative, a 6 page declaration of Suzanne Palmer Ferrell, a 3 page declaration of Glen Dragovich, and a 1 page declaration of Leonard Kaye now pending before the Commission on State Mandates.

upon all Interested Parties listed on the attachment hereto and by

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date. Commission on State Mandates FAX as well as mail of originals.
- by placing  true copies  original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

**PLEASE SEE ATTACHED MAILING LIST**

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

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

Executed this 4th day of April, 2006, at Los Angeles, California.

  
Hasmik Yaghobyan

Mr. Steve Shields  
Shields Consulting Group, Inc.  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

Mr. David Wellhouse  
David Wellhouse & Associates, Inc.  
9175 Kiefer Blvd., Suite 121  
Sacramento, CA 95826

Mr. Allan Burdick  
MAXIMUS  
4320 Auburn Blvd., Suite 2000  
Sacramento, CA 95841

Mr. John Isaacson  
Office of Emergency Service  
Criminal Justice Programs Division  
3650 Schriever Ave.,  
Mather, CA 95655

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Ms. Annette Chinn,  
Cost Recovery Systems  
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Mr. Paul L. Seave  
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Steve Smith Enterprises, Inc.  
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Mr. Jim Spano,  
State Controller's Office  
Division of Audits  
300 Capitol Mall, Suite 518  
Sacramento, California 95814

Mr. Kenneth J. O'Brian  
Commission on Peace Officers Standards & Training  
Administrative Services Division  
1604 Alhambra Blvd.  
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State Controller's Office(B-08)  
Division of Accounting & Reporting  
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Ms. Bonnie Ter Keurst  
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**COMMISSION ON STATE MANDATES**

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August 31, 2006

Mr. Leonard Kaye  
Office of the Auditor-Controller  
County of Los Angeles  
500 West Temple Street, Room 525  
Los Angeles, CA 90012-2766

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

Re: **Draft Staff Analysis and Proposed Parameters and Guidelines**  
*Domestic Violence Arrests and Victim Assistance, 98-TC-14*  
County of Los Angeles, Claimant  
Penal Code Sections 264.2 and 13701  
Statutes 1998, Chapters 698 and 702

Dear Mr. Kaye:

The draft staff analysis and proposed parameters and guidelines are enclosed for your review and comment.

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis and proposed parameters and guidelines by **September 21, 2006**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties and to be accompanied by a proof of service. If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Hearing**

This matter is tentatively set for hearing on **October 26, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

Mr. Leonard Kaye  
Page 2

**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, please contact Cathy Cruz Jefferson at (916) 323-8218.

Sincerely,



NANCY PATTON  
Assistant Executive Director

Enclosures

MAILED: Mail List FAXED: 8/11/00  
DATE: 8/11/00  
CHRON: FILE  
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ITEM \_\_\_\_\_

**DRAFT STAFF ANALYSIS  
PROPOSED PARAMETERS AND GUIDELINES**

Penal Code Sections 264.2 and 13701

Statutes 1998, Chapters 698 and 702

*Domestic Violence Arrests and Victim Assistance (98-TC-14)*

County of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

The Executive Summary will be included in the Final Staff Analysis.

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## STAFF ANALYSIS

### Claimant

County of Los Angeles

### Chronology

- 12/09/04 Commission on State Mandates (Commission) adopted Statement of Decision
- 01/07/05 Claimant submitted proposed parameters and guidelines
- 03/01/05 The State Controller's Office (SCO) submitted comments
- 01/27/06 Commission staff requests the claimant to justify its proposed reasonable reimbursement methodology
- 03/15/06 Claimant requests a pre-hearing conference
- 04/04/06 Claimant submits declarations to support its proposed reasonable reimbursement methodology
- 04/25/06 Commission staff convenes a pre-hearing conference
- 08/31/06 Commission issues a draft staff analysis

### Summary of the Mandate

On December 9, 2004, the Commission on State Mandates (Commission) adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (Pen. Code, § 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim; including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Pen. Code, §§ 243, subd. (e), & 273.5) to those for which a victim card is given out (Pen. Code, § 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person



who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).

## Discussion

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines.

### II. Eligible Claimants

The claimant proposed that eligible claimants include any city, county, city and county, school district, or community college district. However, as the SCO correctly commented, the Statement of Decision specifically states that this is a mandated program on local agencies only. Staff modified this section accordingly.

### IV. Reimbursable Activities

#### Claimant's Proposed Activities

The claimant's proposed reimbursable activities mirrored those in the Commission's Statement of Decision, with the addition of the following ongoing activity:

When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services (5) under Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) as underlined below is reimbursable:

- a. (subd. (c)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal and assistance in safe passage out of the victim's residence."
- b. (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""

The SCO suggested that these activities not be included in the parameters and guidelines.

Staff notes the Commission's finding that for years in which Statutes 1984, chapter 1609 is not suspended in the budget act, the one-time activity of adding the following information to the domestic violence response policy is a mandated new program or higher level of service:

- Victim assistance provisions: "transportation to a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence." (Pen. Code, § 13701, subd. (c)(7).)
- Victim notice: "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229." (Pen. Code, § 13701, subd. (c)(9)(D).)

However, the Statement of Decision specifically states that:

Except for fiscal year 2003-2004, the underlying program has been suspended by the Legislature since the effective date of the test claim statute. According to a declaration provided by the claimant, the claimant incurred costs for this one-time activity between January 1, 1999, and June 30, 1999, when the suspension was in effect and the state did not mandate the activities. [Fn. Omitted.] Therefore, there is no evidence in the record that the activity of adding victim assistance information and information about the victims compensation program, as required by Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D), to the domestic violence response policy resulted in "costs mandated by the state," within the meaning of Government Code section 17514, to the claimant or any other local agency. Therefore, reimbursement is not required for Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D). [Emphasis added.]

Thus, staff did not include the additional ongoing activity proposed by the claimant.

#### Providing the Victim Card to Victims

In its proposed reimbursement methodology submitted in April 2006, the claimant states the following activities are in its 'Protocol' for delivering the victim card:<sup>1</sup>

1. The deputy shall obtain the card. The card is usually kept in the deputy's patrol bag which is stored in the trunk of the deputy's patrol vehicle.
2. [Procedures concerning obtaining a file number and entering data.]
3. When handing the victim the card, the deputy must explain what the card is and how to use it.
  - The deputy must obtain the victim's attention. This is not an easy task. Given the emotional nature of the situation, the victim is usually upset and has difficulty concentrating and/or calming down. If there is an arrest of the batterer or other type of action, this may divert the victim's attention further extending the period of time to explain the card to the victim.
  - The deputy will explain what is on the card (the phone numbers and the file number) and how the victim could use the card. One way to ensure that the victim is absorbing the information is to have the victim repeat what the deputy has just said.
  - The deputy must be sympathetic, understanding, and not rush the explanation as this will cause the victim to not understand the card and/or forget about the card altogether.

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<sup>1</sup> See Declaration of Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison, Sheriff's Department, County of Los Angeles, page \_\_\_\_\_. The declaration states, "I declare that it is my information and belief that based on my experience, education, and training that the minimum time to perform the necessary activities, identified in the protocol, attached as Exhibit A, is 10 minutes."

- If the deputy is sympathetic, understanding, and explains the card in a slow and concise manner, the victim may not remember everything the deputy said, but they should remember that the card is available.
4. Common questions which the deputy must be prepared to address are: [questions about the shelter and incarceration of the accused are listed].
  5. Victims who are deaf, blind, or speak certain languages may require information concerning disability-specific shelters or language-specific shelters such as Spanish, Cantonese, and Mandarin.
    - The officer, in these cases, helps direct these victims to the most appropriate shelter.
    - The officer, in these cases, uses an interpreter at the scene to communicate with the victim whether it is a language or special needs such as deafness.
    - If the officer does not speak the victim's language, a fellow deputy, a non-interested party, or a Watch Desk is contacted and an interpreter is used via the phone on a three or four way call. Family members are not used to interpret for the officer.

The issue is whether the activities in this 'Protocol' are "the most reasonable method of complying with the mandate."<sup>2</sup>

As stated in the Assembly Floor Analysis of the test claim legislation (Stats. 1998, ch. 698): "According to the author, 'AB 1201 intends to provide victims of domestic violence the same information on access to counseling and services as is provided in current law for victims of rape and sexual assault.'"<sup>3</sup> Thus, the legislative intent was to give domestic violence victims the access to services that the law affords to rape and sexual assault victims. Therefore, it is instructive to analyze the parameters and guidelines for the *Rape Victims Counseling Center Notice* test claim (CSM-4426), which reimburses the activity of distributing victim cards to rape and sexual assault victims.

Parameters and guidelines for CSM-4426 were adopted on May 26, 1994, and amended on December 19, 1996. Under "Reimbursable Continuing Costs," paragraph B. 2 (b), the following activities are eligible for reimbursement:

Law enforcement's road officer, clerical, and dispatcher costs required to: request each victim's consent to notify a rape counseling center, each time alleged violation(s) include at least one violation of Penal code section 261, 261.5, 262, 286, 288a, 289, alleged separately or in combination with other violations; furnish a rape victim with a "Victims of Domestic Violence" card; record, file, and/or data-process state mandated information; and, provide hospital verification whether the local rape victim counseling center has been notified, upon the consent of the victim. [Emphasis added.]

<sup>2</sup> California Code of Regulations, title 2, section 1183.12, subdivision (b)(2).

<sup>3</sup> Assembly Floor Analysis, Concurrence in Senate Amendments, Assembly Bill No. 1201 (1997-1998 Reg. Sess.) as amended July 30, 1998, page 2.

Under the heading, "Claim Preparation and Submission," the parameters and guidelines state:

One-time costs and continuing costs that are reimbursable are limited to: A. Employee Salaries and Benefits ...

2. For continuing costs, excluding reprinting costs described in part V, paragraph B, 2 (a), unit costs must be claimed for each specified victim based on the following standard time:

- (a) 10 minutes -- road officer's time related to the subject state mandates
- (b) 4 minutes -- clerical's duties related to recording, filing, and/or data-processing
- (c) 2 minutes -- dispatcher's time related to hospital verification<sup>[4]</sup>

Although the road officer's reimbursable duties are not stated in the parameters and guidelines, they can be deduced by eliminating the enumerated clerical and dispatcher duties. Thus, the road officer is responsible for (1) requesting victim's consent to notify a rape counseling center, and (2) furnishing the victim with a victim card.

Because the Legislature intended to provide the same level of service to domestic violence victims as to rape victims, the reimbursable activities for rape victims are substantially the same as the activity at issue, which is to "provide victim cards to victims of the following crimes..."<sup>5</sup>

More than delivering a victim card, the test claim statute's legislative intent was to convey information and provide access to services.<sup>6</sup> Thus, explaining the victim card and answering the victim's questions related to it realizes the intent of the test claim legislation. Therefore, staff finds that the activities listed in the 'Protocol' are reasonable methods of complying with the mandate.

Based on the foregoing, under the ongoing activity to provide victim cards to victims, staff listed specific actions related to obtaining the card, giving the card to the victim, explaining what is on

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<sup>4</sup> The executive summary of the proposed amended parameters and guidelines, adopted in December 1996, states: "Commission staff requested documentary evidence from interested parties identifying necessary revisions to the standard times. Responses received from Department of Finance and San Bernardino County agreed with continued usage of current standard times. Mr. David Wellhouse, Wellhouse and Associates, verbally responded that smaller jurisdictions do not keep an accounting of actual time in order to furnish documentary evidence; therefore, none were forthcoming at this time. Consequently, staff recommends that the existing standard times remain in effect."

<sup>5</sup> Domestic Violence Arrests and Victim Assistance Statement of Decision (98-TC-14), adopted December 9, 2004, page 26.

<sup>6</sup> According to the Assembly Floor Analysis, *supra*, "AB 1201 intends to provide victims of domestic violence the same information on access to counseling and services as is provided in current law for victims of rape and sexual assault. Abusive behavior arises out of relationships and domestic violence can devastate the lives of victims. These victims deserve access to counseling and services that helps them put their lives back together or take steps to protect themselves. [¶]...[¶] It makes common sense to provide victims access to counseling services before an abusive relationship leads to rape or other violent crimes."

the card, addressing the victim's questions, and if necessary, obtaining an interpreter. An officer's time for investigating and arresting the accused is not reimbursable.

#### ***V. Claim Preparation and Submission***

##### **Reasonable Reimbursement Methodology for One-Time Activities**

Under this section, the claimant proposed the following reasonable reimbursement methodology for the proposed one-time activities:

- a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

Government Code section 17518.5, subdivision (a), states:

"Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:

- (1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.
- (2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

The SCO commented that the claimant did not substantiate its proposal. Accordingly, on January 27, 2006, Commission staff issued a letter requesting the claimant to submit written evidence to justify its proposal and demonstrate that it is representative of all counties in the state. On April 4, 2006, the claimant submitted two declarations from the county's Sheriff's Department to support its proposal.

Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison for the Sheriff's Department in the County of Los Angeles declared the following:

...that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to verify each facility and phone number to ensure that the shelter is open and the phone number is still good.

...that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to find out if additional shelters have opened since the last update of the card.

...that it is my information and belief that based on my experience, education, and training that the time necessary to add the statements in the response policy as set forth in Penal Code section 13701 (c)(7) is two hours.

...that it is my information and belief that based on my experience, education, and training that the time necessary to add the contact information to the response policy as set forth in Penal Code section 13701 (c)(9)(D) is four hours.

...that it is my information and belief that based on my experience, education, and training that the time necessary to amend the victim card provision in the response policy and revise the cards for reprinting as set forth in Penal Code section 13701 (c)(9)(H) is three hours.<sup>7</sup>

Glen Dragovich, Assistant Division Director of Administrative Services for the Sheriff's Department in the County of Los Angeles declared:

...that it is my information and belief that one-time reimbursable cost of \$600 will be incurred to:

Revise and print victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

...that it is my information and belief that one-time reimbursable costs of \$300 will be incurred to add statements in the response policy.<sup>8</sup>

The declarations submitted by the claimant to justify its proposal were provided by individuals employed by the Sheriff's Department in the County of Los Angeles. Staff finds that the declarations do not demonstrate that the proposed reasonable reimbursement methodology meets the conditions required by Government Code section 17518.5, because there is no evidence in the record that the proposed amount is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for 50 percent or more of eligible local agencies.

Therefore, based on the evidence in the record, staff recommends the actual cost methodology for the three one-time activities.

#### Reasonable Reimbursement Methodology for Ongoing Activity

Government Code section 17518.5 states that a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state. Here, the claimant proposed a unit time of 10 minutes per incident for the ongoing activity of providing victim cards to specified victims. In its comments dated April 4, 2006, the claimant argued that: "...the standard time of 10 minutes for a road officer to provide the required services...is the same as the established standard time used in the current

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<sup>7</sup> Exhibit \_\_\_\_, page \_\_\_\_.

<sup>8</sup> Exhibit \_\_\_\_, page \_\_\_\_.

parameters and guidelines... for the Rape Victim Counseling Center Notice program...  
[Fn. Omitted.]”

The proposed unit time must satisfy the conditions in Government Code section 17518.5, subdivision (a). Thus, the issue is whether 10 minutes represents an appropriate reasonable reimbursement methodology under Government Code section 17518.5.

Staff acknowledges that the *Rape Victim Counseling Center Notice* program includes a unit time of 10 minutes for a road officer's time to: 1) request the victim's consent to notify a rape counseling center, and 2) furnish the victim with a victim card. However, there is now an intervening statute in Government Code section 17518.5, which was not in effect at the time the parameters and guidelines for the *Rape Victim Counseling Center Notice* program was adopted in 1996. Thus, staff finds that the declarations do not demonstrate that the proposed unit time of 10 minutes meets the conditions required by Government Code section 17518.5, because there is no evidence in the record that the proposed amount is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for 50 percent or more of eligible local agencies.

Therefore, based on the evidence in the record, staff recommends the actual cost methodology for the ongoing activity.

#### Direct Cost Reporting

Direct cost elements must be identified for each reimbursable activity identified in Section IV. of the parameters and guidelines. However, staff notes that the cost elements for travel and training were not included because training is not a reimbursable activity and travel costs should not be incurred.

#### Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines for the *Domestic Violence Arrests and Victim Assistance* program, beginning on page 11.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

## PROPOSED PARAMETERS AND GUIDELINES

Penal Code Sections 264.2, ~~13519~~, and 13701

Statutes of 1998, Chapters 698, ~~701~~, and 702

*Domestic Violence Arrests and Victim Assistance (98-TC-14)*

County of Los Angeles, Claimant

### I. SUMMARY OF THE MANDATE

On December 9, 2004, The Commission on State Mandates (Commission) decided that adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Statutes of 1998, Chapter ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Statutes of 1998, Chapter ch. 698), impose a reimbursable state-mandated program upon local governments agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out (Section 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

If the Legislature does not suspend the Domestic Violence mandate program (CSM 4222, Statutes of 1984, Chapter 1609), the activities, underlined below, pursuant to Penal Code section 13701, subd. (e)(7) and Penal Code section 13701, subd. (c)(9)(D) are reimbursable:



~~•(subd. (e)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal and assistance in safe passage out of the victim's residence."~~

~~•(subd. (e)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""~~

## II. ELIGIBLE CLAIMANTS

~~The eligible claimants are any county, city, city and county, school district, or community college district. Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.~~

## III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (c), as amended by Statutes 1998, chapter 681, states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The County of Los Angeles filed the subject test claim to recover law enforcement agency 'costs mandated by the State', as defined by Government Code Section 17514, was filed by the County of Los Angeles on May 21, 1999, and would have permitted the recovery of costs effective on and after July 1, 1997 had the test claim legislation been effective on that date establishing eligibility for fiscal year 1997-1998. However, the effective and operative date of the test claim legislation (Chapter 698, Statutes of 1998 as joined with Chapter 701, Statutes of 1998 and Chapter 702, Statutes of 1998) was enacted on September 22, 1998 and became effective on is January 1, 1999. Accordingly, reimbursement for local law enforcement costs begins on the test claim legislation's effective date of costs incurred for compliance with Penal Code sections 264.2 and 13701, as amended by Statutes 1998, chapters 698 and 702, are reimbursable on or after January 1, 1999, as this date is within the period specified in Government Code section 17557.~~

~~Actual costs, including those costs deemed to be actual costs under Government Code section 17518.5, for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year's costs shall be submitted to the State Controller within 120 days of notification by the State Controller of the issuance date of for the claiming instructions.~~

~~If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

## IV. REIMBURSABLE ACTIVITIES

~~To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Supporting documents may include, but are not limited to, employee time records or time logs, sign-in sheets, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data~~

relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

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

A. One-Time Activities

1. ~~The one-time cost of~~ Printing victim cards to add the following new information: ~~(1~~ a) phone numbers and/or local county hotlines of battered-women shelters; and (2 ~~2~~ b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).~~
2. ~~The one-time cost of~~ Adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)).~~
3. ~~The one-time cost of~~ Adding the following to the description of the victim card in the domestic violence response policy: ~~(1a)~~ a) phone numbers and/or local county hotlines of battered-women shelters; and (2b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).~~

B. Continuing Ongoing Activities

1. Providing victim cards to victims for the following crimes (Pen. Code, § 264.2, subd. (a)): ~~(1a)~~ a) Penal Code section 243, subdivision (e), - battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and b) Penal Code section 273.5, - willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child ~~(section 264.2, subd. (a)).~~

Providing victim cards to victims include the following reimbursable activities:

- a. Obtaining the card.
- b. Giving the card to the victim.
- c. Explaining to the victim what the card is and how the victim could use the card.
- d. Addressing questions about the card and shelters.
- e. If necessary, providing an interpreter at the scene to communicate with the victim.

An officer's time for investigating and arresting the accused is not reimbursable.

~~2. When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services (5) under Penal Code section 13701, subd. (e)(7) and Penal Code section 13701, subd. (e)(9)(D) as underlined below is reimbursable:~~

~~a. (subd. (e)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal and assistance in safe passage out of the victim's residence."~~

~~b. (subd. (e)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""~~

## V. CLAIM PREPARATION AND SUBMISSION

~~Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate.~~

~~1. The following requirements govern claiming costs under the "reasonable reimbursement methodology" pursuant to Government Code Section 17518.5.~~

### One-time Costs

~~A claimant may elect either to claim actual one-time printing, policy and related costs, as provided herein, or claim such one-time costs using a uniform cost allowance:~~

- a. ~~\$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(F)(i) & (iv)).~~
- b. ~~\$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(F)(i) & (iv)).~~

e. ~~\$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).~~

#### Continuing Costs

A claimant may elect either to claim actual continuing costs, as provided herein, or claim such continuing costs using a standard time. Unit costs must be claimed for each specified victim, based on a standard time of 10 minutes of a road officer's time—the time required to provide victim cards to victims for the following crimes:

- (a) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom, the defendant has, or previously had, a dating or engagement relationship
- (b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).

The standard time of 10 minutes is multiplied by the road officers' average productive hourly rate, including applicable indirect costs as specified in the attached Ps&Gs, and then multiplied by the total number of reported incidents regarding alleged violations (Penal Code section 243(e) and 273.5).

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

#### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

##### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

##### 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

### B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

~~2. The following requirements govern claiming costs under the actual cost methodology:~~

~~A. Salaries and Benefits~~

~~Claimed reimbursement for employee costs should be supported by name, position, productive hourly rate, hours worked, fringe benefits amount and a brief description for the assigned unit and function relative to the mandate.~~

~~The source documents required to be maintained, by the claimant may include, but are not limited to, employee timecards and/or cost allocation reports.~~

~~B. Materials and Supplies~~

~~Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.~~

~~The source documents required to be maintained by the claimant may include, but are not limited to, invoices, lease documentation and other documents evidencing the validity of the expenditure.~~

~~C. Contracted Services~~

~~List costs incurred for contract services, including legal counsel for the development and operation of the mandated program and indirect costs, computed in accordance with OMB A-87 as described in Section V.G. [below], for administration of reimbursable contract[s]. Use of contract services must be justified by the claimant.~~

~~Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and invoices with the claim and a description of the contract scope of services.~~

~~D. Fixed Assets and Equipment~~

~~Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes~~

~~other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.~~

~~The source documents required to be maintained by the claimant may include, but are not limited to, contracts, charges, invoices, and statements.~~

#### ~~E. Travel~~

~~Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element V.A. Salaries and Benefits, for each applicable reimbursable activity.~~

#### ~~F. Training~~

~~Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element V.A., Salaries and Benefits, and V.B., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element V.C., Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.~~

#### ~~G. Indirect Cost Rates~~

~~Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include (1) the overhead costs of the unit performing the mandate or (2) the indirect costs of administering reimbursable contract(s), or (3) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.~~

~~Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of labor, excluding fringe benefits, or, where applicable, 10% of the amount of reimbursable contract(s), if 50% or more of all reimbursable services are provided under contract, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.~~

~~If the claimant chooses to prepare an ICRP, both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B).~~

## VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## VII. OFFSETTING REVENUES, SAVINGS, AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds and other state funds, shall be identified and deducted from this claim.

## VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform ~~with the statute or executive order creating the mandate and~~ to the parameters and guidelines adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to ~~the statute or executive order creating the mandate and the~~ parameters and guidelines adopted as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.



**X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.



Original List Date: 11/17/2003  
Last Updated: 5/19/2008  
List Print Date: 08/31/2008  
Claim Number: 98-TC-14  
Issue: Domestic Violence Arrests and Victim Assistance

Mailing Information: Draft Staff Analysis

**Mailing List**

**TO ALL PARTIES AND INTERESTED PARTIES:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

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PHONE: (213) 974-8301 FAX: (213) 626-6427

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

September 15, 2006

Ms. Paula Highashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Dear Ms. Highashi:

**County of Los Angeles Request to Permit Time Studies  
Commission Staff Proposed Parameters and Guidelines [Ps&Gs]  
Domestic Violence Arrests and Victim Assistance [ CSM 98-TC-14]**

We request that language permitting time studies be added to the proposed Ps&Gs for the subject program, under Section IV., as follows:

"Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office."

Attached is a letter from the State Controller's Office requesting that the Commission include time study language in all Ps&Gs. The [above] language is from the POBOR's Ps&Gs proposed by Commission staff on August 31, 2006.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

*John Naimo* FOR

J. Tyler McCauley  
Auditor-Controller

JTM:CY:LK  
Enclosures

*"To Enrich Lives Through Effective and Caring Service"*

**COUNTY OF LOS ANGELES  
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J. TYLER McCAULEY  
AUDITOR-CONTROLLER



DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Hasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 15th day of September 2006, I served the attached:

Documents: County of Los Angeles Request to Permit Time Studies, Commission Staff Proposed Parameters and Guidelines [Ps&Gs], Domestic Violence Arrests and Victim Assistance [CSM 98-TC-14], including a 1 page letter of J. Tyler McCauley dated 9/15/06, and a 4 page narrative, now pending before the Commission on State Mandates.

upon The Commission on State Mandates, the original document plus a copy per the instructions provided in Case No: 04-RL-4282-10:

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date, Commission on State Mandates FAX as well as mail of originals.
- by placing  true copies  original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

**PLEASE SEE ATTACHED MAILING LIST**

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

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

Executed this 15th day of September, 2006, at Los Angeles, California.

Hasmik Yaghobyan



**STEVE WESTLY**  
California State Controller

January 31, 2005

Ms. Nancy Patton  
Assistant Executive Director  
Commission on State Mandates  
980 9th Street, Suite 300  
Sacramento, CA 95814

**RE: REQUEST TO AMEND PARAMETERS AND GUIDELINES**

Dear Ms. Patton:

We request that the Commission on State Mandates amend all parameters and guidelines to include specific language related to time studies. We recommend that the following language replace any existing time study language in all the current parameters and guidelines: "Claimants may use time studies to support salary and benefit costs when an activity is a task repetitive in nature. Time study usage is subject to the time study guidelines included in the State Controller's annual claiming instructions." This language should replace the language in the 'Employee Salaries and Benefits' paragraph under 'Supporting Documentation'.

Enclosed are the *Time-Study Guidelines (TSG)* approved by the State Controller's Office (SCO). The guidelines specify that a time study is appropriate when an activity is a task repetitive in nature. Time studies are not appropriate for activities that require a varying level of effort.

Additionally, the *TSG* allow claimants to file reimbursement claims using the guidelines for costs incurred on or after January 1, 2005. However, from an audit perspective, the SCO allows claimants to use time studies when costs incurred before January 1, 2005, are not supported by actual time records, provided the activity is a task repetitive in nature.

The *TSG* have been placed on the SCO's Web site. We will also update the SCO annual claiming instructions to include these guidelines.

If you have any questions relating to the *TSG*, please contact Ginny Brummels, Manager of the Local Reimbursements Section in the Division of Accounting and Reporting, at (916) 324-0256. For audit-related questions, please contact Jim L. Spano, Chief of the Compliance Audits Bureau in the Division of Audits, at (916) 323-5849.

Sincerely,

Original Signed By:

VINCENT P. BROWN  
Chief Operating Officer

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SACRAMENTO 300 Capitol Mall, Suite 1850, Sacramento, CA 95814  
PHONE (916) 445-2636, FAX (916) 322-4404

## TIME STUDY GUIDELINES

### BACKGROUND

For costs incurred on or after January 1, 2005, a reasonable reimbursement methodology can be used as a "formula for reimbursing local agency and school district costs mandated by the state" that meets certain conditions specified in *Government Code* section 17518.5(a). For costs incurred prior to January 1, 2005, time study can only substitute for continuous records of actual time spend for a specific fiscal year if the program's *Parameters and Guidelines* allows for the use of time studies.

Two methods are acceptable for documenting employee time charged to mandated cost programs: Actual Time Reporting and Time Study, which are described below. Application of time study results is restricted. As explained in Time Study Results below, the results may be projected forward a maximum of two year provided the claimant meets certain criteria.

#### Actual Time Reporting

*Parameters and Guidelines* defines reimbursable activities for each mandated cost program. (Some *Parameters and Guidelines* refer to reimbursable activities as reimbursable components.) When employees work on multiple activities and/or programs, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation that meets the following standards (which clarify documentation requirements discussed under the Reimbursable Activities section of recent *Parameters and Guidelines*):

- They must reflect an after-the-fact (contemporaneous) distribution of the actual activity of each employee;
- They must account for the total activity for which each employee is compensated;
- They must be prepared at least monthly and must coincide with one or more pay periods; and
- They must be signed by the employee.

Budget estimates or other distribution percentages determined before services are performed do not qualify as support for time distribution.

#### Time Study

In certain cases, a time study may be used to substitute for continuous records of actual time spent on multiple activities and/or programs. An effective time study requires that an activity be a task that is repetitive in nature. Activities that require a varying level of effort are not appropriate for time studies.

### TIME STUDY PLAN

A time study plan is necessary before conducting the time study. The claimant must retain the time study plan for audit purposes. The plan needs to identify the following:

- Time period(s) to be studied – The plan must show that all time periods selected are representative of the fiscal year, and the results can be reasonably projected to approximate actual costs.



- **Activities and/or programs to be studied** – For each mandated program included, the time study must separately identify each reimbursable activity defined in the mandated program's *Parameters and Guidelines*, which are derived from the program's Statement of Decision. If a reimbursable activity in the *Parameters and Guidelines* identifies separate and distinct subactivities, these subactivities must also be treated as individual activities.

For example, subactivities (a), (b), and (c) under reimbursable activity (B)(1) of the local agency's Domestic Violence Treatment Services: Authorization and Case Management program relate to information to be discussed during victim notification by the probation department and therefore are not separate and distinct activities. These subactivities do not have to be separately studied.

- **Process used to accomplish each reimbursable activity** – Use flowcharts or similar analytical tools and/or written desk procedures to describe the process for each activity.
- **Employee universe** – The employee universe used in the time study must include all positions whose salaries and wages are to be allocated by means of the time study.
- **Employee sample selection methodology** – The plan must show that employees selected are representative of the employee universe, and the results can be reasonably projected to approximate actual costs. In addition, the employee sample size should be proportional to the variation in time spent to perform a task. The sample size should be larger for tasks with significant time variations.
- **Time increments to be recorded** – The time increments used should be sufficient to recognize the number of different activities performed and the dynamics of these responsibilities. Very large increments (such as one hour or more) might be used for employees performing only a few functions that change very slowly over time. Very small increments (a number of minutes) may be needed for employees performing more short-term tasks.

Random moment sampling is not an acceptable alternative to continuous time records for mandated cost claims. Random moment sampling techniques are most applicable in situations where employees perform many different types of activities on a variety of programs with small time increments throughout the fiscal year.

### TIME STUDY DOCUMENTATION

Time studies must:

- Be supported by time records that are completed contemporaneously;
- Report activity on a daily basis;
- Be sufficiently detailed to reflect all mandated activities and/or programs performed during a specific time period; and
- Coincide with one or more pay periods.

Time records must be signed by the employee (electronic signatures are acceptable) and be supported by corroborating evidence which validates that the work was actually performed. As

with actual time reporting, budget estimates or other distribution percentages determined before services are performed do not qualify as valid time studies.

### TIME STUDY RESULTS

Time study results must be summarized to show how the time study supports the costs claimed for each activity. Any variations from the procedures identified in the original time study plan must be documented and explained.

Current-year costs must be used to prepare a time study. Claimants may project time study results to no more than two subsequent fiscal years. A claimant may not apply time study results retroactively.

- Annual Reimbursement Claims – Claimants may use time studies to support costs incurred on or after January 1, 2005. Claimants may not use time studies for the period July 1, 2004, through December 31, 2004, unless (1) the program's *Parameter and Guidelines* specifically allows time studies, and (2) the time study is prepared based on mandated activity occurring between July 1, 2004, and December 31, 2004.
- Initial Claims – When filing an initial claim for new mandated programs, claimants may only use time study results for costs incurred on or after January 1, 2005. Claimants may not use time studies to support costs incurred before January 1, 2005, unless (1) the program's *Parameter and Guidelines* specifically allows time studies, and (2) the claimant prepares separate time studies for each fiscal year preceding January 1, 2005, based on mandated activity occurring during those years.

When projecting time study results, the claimant must certify that there have been no significant changes between years in either (1) the requirements of each mandated program activity or (2) the processes and procedures used to accomplish the activity. For all years, the claimant must maintain corroborating evidence that validates the mandated activity was actually performed. Time study results used to support subsequent years' claims are subject to the recordkeeping requirements for those claims.

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Mr. Jim Spano,  
 State Controller's Office  
 Division of Audits  
 300 Capitol Mall, Suite 518  
 Sacramento, California 95814

Ms. Annette Chinn,  
 Cost Recovery Systems  
 705-2 East Bidwell Street #294  
 Folsom, CA 95630

Mr. Kenneth J. O'Brian  
 Commission on Peace Officers Standards & Training  
 Administrative Services Division  
 1604 Alhambra Blvd.  
 Sacramento, CA 95816-7083

Mr. Paul L. Seave  
 Attorney General's Office  
 Crime & Violence Prevention Center  
 1300 I Street, Suite 1120  
 Sacramento, CA 95814

Ms. Susan Geanancou  
 Department of Finance (A-15)  
 915 L Street, Suite 1190  
 Sacramento, CA 95814

Date	9/15/06	# of pages	8
From	Leonard Kaye		
Co.	LA County		
Phone #	913-974-8564		
Post-off Fax Note	7071		
To	Paula Higashi		
Co./Dept.			
Phone #			
Fax #	916 445-0278		

Ms. Ginny Brummels  
State Controller's Office(B-08)  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor-Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018



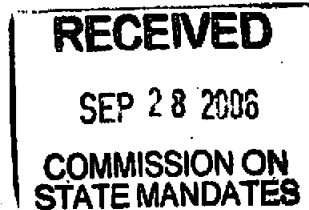
**DEPARTMENT OF  
FINANCE**

**ARNOLD SCHWARZENEGGER, GOVERNOR**

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

September 26, 2006

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



Dear Ms. Higashi:

Pursuant to your letter of August 31, 2006, the Department of Finance (Finance) is providing comments on the proposed parameters and guidelines related to Claim No. CSM-98-TC-14 "Domestic Violence Arrests and Victim Assistance."

Finance supports the Commission staff's recommendation that reimbursement for this claim should be based on actual costs only. The State Controller's Office noted in its comments dated February 8, 2005, that the unit costs contained in the claimant's proposed reimbursement methodology are not supported with sufficient data. Finance agrees that these costs are unsubstantiated; therefore, actual costs should be used to determine the initial reimbursement paid to claimants.

In the interest of streamlining the claims process, we plan to review submitted claims on an ongoing basis and may, at a later date, propose amendments to the adopted parameters and guidelines that may include the use of a reasonable reimbursement methodology.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your August 31, 2006 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

Thomas E. Dithridge  
Program Budget Manager

Attachments

**PROOF OF SERVICE**

**Test Claim Name: Domestic Violence Arrests and Victim Assistance**  
**Test Claim Number: CSM-98-TC-14**

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On 9-26-06, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

**A-16**  
Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Facsimile No. 445-0278

**B-8**  
Mr. William Ashby  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Room 500  
Sacramento, CA 95816

**B-29**  
Ms. Marianne O'Malley  
Legislative Analyst's Office  
925 L Street, Suite 1000  
Sacramento, CA 95814

Mr. Allan Burdick  
MAXIMUS  
4320 Auburn Boulevard, Suite 2000  
Sacramento, CA 95841

Mr. Leonard Kaye  
County of Los Angeles  
Department of Auditor-Controller  
Kenneth Hahn Hall of Administration  
500 West Temple Street, Suite 525  
Los Angeles, CA 90012

Ms. Marcia Faulkner  
County of San Bernardino  
Office of Auditor / Controller / Recorder  
222 West Hospitality Lane, Fourth Floor  
San Bernardino, CA 92415 - 0018

Mr. David Wellhouse  
Wellhouse and Associates  
9175 Kiefer Boulevard, Suite 121  
Sacramento, CA 95826

Ms. Annette Chinn  
Cost Recovery Systems, Inc.  
705-2 East Bidwell Street, #294  
Folsom, CA 95630

**B-08**  
Mr. Jim Spano  
State Controller's Office  
Division of Audits  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

Mr. Steve Shields  
Shields Consulting Group, Inc.  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

Mr. Steve Smith  
Steve Smith Enterprises, Inc.  
4633 Whitney Avenue, Suite A  
Sacramento, CA 95821

Mr. Jim Jagers  
P.O. Box 1993  
Carmichael, CA 95609

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor/Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

A-15

Ms. Carla Castaneda  
Department of Finance  
915 L Street, Suite 1190  
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on at Sacramento, California.

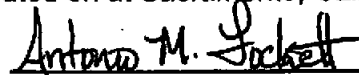
Ms. Beth Hunter  
Centration, Inc.  
8570 Utica Avenue, Suite 100  
Rancho Cucamonga, CA 91730

B-08

Ms. Ginny Brummels  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

A-15

Ms. Susan Geanacou  
Department of Finance  
915 L Street, Suite 1190  
Sacramento, CA 95814

  
\_\_\_\_\_  
Antonio Lockett

ICC: DITHRIDGE, LYNN, CASTAÑEDA, TIFFANY, GEANACOU, FILE  
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