



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

RECEIVED

January 09, 2019

Commission on
State Mandates

MARY C. WICKHAM
County Counsel

January 9, 2019

TELEPHONE
(213) 974-7367
FACSIMILE
(213) 617-7182
TDD
(213) 633-0901

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

Re: 17-TC-29, Youth Offender Parole Hearings

Dear Ms. Halsey:

The County of Los Angeles supports the County of San Diego's request to adopt a new test claim regarding costs associated with implementing youth offender parole hearings under Senate Bills 260, 261, and 394. These bills create a new parole mechanism which requires youth related factors to be presented at the time of sentencing.

Senate Bill 260 requires the Board of Parole Hearings to conduct youth offender parole hearings to consider the release of offenders who committed specified crimes prior to age 18. The Legislature subsequently expanded this new parole mechanism to offenders younger than age 23 and later extended the age to 25. (SB 261 and SB 394 respectively.)

Prior to the passage of these bills, the United States Supreme Court recognized that juveniles are constitutionally different than adults and placed the following limitations on juvenile sentencing: (1) no individual can be sentenced to death for a crime committed as a juvenile (*Roper v. Simmons* (2005) 543 U.S. 551), (2) no juvenile who commits a non-homicide offense may be sentenced to life without parole (*Graham v. Florida* (2010) 560 U.S. 48.), and (3) no juvenile who commits a homicide offense may be subjected to an automatic sentence of life without parole (*Miller v. Alabama* (2012) 567 U.S. 460). The California Supreme Court has also precluded sentencing a juvenile for a non-homicide offense to a term of years that falls outside the offender's natural life expectancy. (*People v. Caballero* (2012) 55 Cal.4th 262).

In *People v. Franklin* (2016) 63 Cal.4th 261, the California Supreme Court held that SB 260 contemplates that information regarding a youthful offender's characteristics and circumstances at the time of the offense will be available at the time of the parole hearing to facilitate consideration by the California Board of Parole Hearings. The court indicated that assembling "such information about the individual before the crime is typically a task more easily done at or near the time of the offense rather than decades later when memories have faded, records may have been lost or destroyed, or family members may have relocated or passed away." *Id.* at 283, 284. Penal Code section 3051 subd. (f)(1) provides that any psychological evaluation and risk assessment instrument used by the board in assessing growth and maturity shall take into consideration any subsequent growth and increased maturity of the individual. Consideration of subsequent growth and increased maturity necessitates the availability of information about the offender when he or she was a youth.

Both the U.S. and California Supreme Courts have recognized that juveniles lack maturity and have an underdeveloped sense of responsibility, which often results in impetuous and ill-considered actions and decisions. Furthermore, the courts also recognized that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. Finally, the character of a juvenile is not as well formed as that of an adult and there is potential for growth and maturity. (See *Miller* at 567 U.S. at p. 471)

In response to these cases the California legislature passed SB 260, 261, and 394, and created the youth offender parole process. The Legislature recognized that youthfulness both lessens a person's moral culpability and enhances the prospect of an individual becoming a contributing member of society. Therefore, the Legislature has mandated that youth offender parole hearings provide an opportunity to obtain release. Further, the California Board of Parole Hearings must give great weight to the diminished culpability of youthful offenders, the hallmark features of youth and any subsequent growth and increased maturity. (Penal Code § 4801, subd. (c)). The Legislature not only provided youth offenders younger than age 18 with a mechanism by which to seek parole from lengthy sentences, but also expanded this mechanism to young adults between 18 and 25 years of age.

Prior to the passage of SB 260, 261, and 394, attorneys were not required to present youth related factors at the time of sentencing. Now, the Legislature has created a new youth offender parole process, mandating a higher level of service by requiring defense counsel to present youth related factors at sentencing hearings. The Legislature seeks to ensure that the California Board of Parole Hearings receives an accurate record of the offender's characteristics and

Heather Halsey
January 9, 2019
Page 3

circumstances at the time of the offense to later afford the offender with a fair parole hearing.

In light of the significant costs associated with this state mandate to ensure that parole hearings provide youth offenders with an opportunity for release, the County of Los Angeles, on behalf of the Los Angeles County Public Defender's Office, hereby collectively request that the Commission adopt the County of San Diego's test claim.

Very truly yours,

MARY C. WICKHAM
County Counsel

By 
LUCIA GONZALEZ
Senior Deputy County Counsel
Government Services Division

LG:lal

- c: Ricardo Garcia
Los Angeles County Public Defender
- c: John Naimo
Los Angeles County Auditor-Controller

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 10, 2019, I served the:

- **Interested Party's (County of Los Angeles's) Comments on the Test Claim filed January 9, 2019**

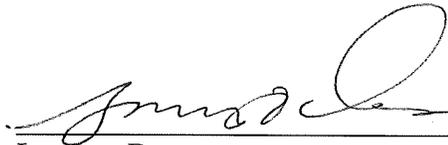
Youth Offender Parole Hearings, 17-TC-29

Penal Code Sections 3041, 3046, 3051, and 4801; Statutes 2013, Chapter 312 (SB 260) and Statutes 2017, Chapters 675 and 684 (AB 1308 and SB 394);

County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 January 10, 2019 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/9/19

Claim Number: 17-TC-29

Matter: Youth Offender Parole Hearings

Claimant: County of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Suedy Alfaro, Senior Deputy County Counsel, *County of San Diego*
1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-5044
Suedy.Alfaro@sdcounty.ca.gov

Socorro Aquino, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

Timothy Barry, *County of San Diego*
Claimant Representative
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101-2469
Phone: (619) 531-6259
timothy.barry@sdcounty.ca.gov

Lacey Baysinger, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

Allan Burdick,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

J. Bradley Burgess, *MGT of America*

895 La Sierra Drive, Sacramento, CA 95864

Phone: (916)595-2646

Bburgess@mgtamer.com

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*

Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-5919

ECalderonYee@sco.ca.gov

Gwendolyn Carlos, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-0706

gcarlos@sco.ca.gov

Annette Chinn, *Cost Recovery Systems, Inc.*

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901

achinnrcs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8326

Carolyn.Chu@lao.ca.gov

Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-4112

Adagan@sco.ca.gov

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

susan.geanacou@dof.ca.gov

Dillon Gibbons, Legislative Representative, *California Special Districts Association*

1112 I Street Bridge, Suite 200, Sacramento, CA 95814

Phone: (916) 442-7887

dillong@cnda.net

Heather Halsey, Executive Director, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

heather.halsey@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*

Local Government Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

Chris.Hill@dof.ca.gov

Edward Jewik, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

Anita Kerezsi, AK & Company
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446
Phone: (805) 239-7994
akcompanysb90@gmail.com

Lisa Kurokawa, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

Kim-Anh Le, Deputy Controller, *County of San Mateo*
555 County Center, 4th Floor, Redwood City, CA 94063
Phone: (650) 599-1104
kle@smcgov.org

Erika Li, Program Budget Manager, *Department of Finance*
915 L Street, 10th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
erika.li@dof.ca.gov

Jill Magee, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

Michelle Mendoza, MAXIMUS
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Meredith Miller, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

Lourdes Morales, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

Geoffrey Neill, Senior Legislative Analyst, Revenue & Taxation, *California State Association of Counties (CSAC)*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
gneill@counties.org

Andy Nichols, Nichols Consulting
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Arthur Palkowitz, Artiano Shinoff
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Jai Prasad, *County of San Bernardino*

Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018

Phone: (909) 386-8854

jai.prasad@atc.sbcounty.gov

Mark Rewolinski, *MAXIMUS*

808 Moorefield Park Drive, Suite 205, Richmond, VA 23236

Phone: (949) 440-0845

markrewolinski@maximus.com

Brian Rutledge, Budget Analyst, *Department of Finance*

Local Government Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

Brian.Rutledge@dof.ca.gov

Tracy Sandoval, *County of San Diego*

1600 Pacific Highway, Room 166, San Diego, CA 92101

Phone: (619) 531-5413

tracy.sandoval@sdcounty.ca.gov

Theresa Schweitzer, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3140

tschweitzer@newportbeachca.gov

Jennifer Shaffer, Executive Officer, *Department of Corrections*

Board of Parole Hearings, P.O. Box 4036, Sacramento, CA 95812

Phone: (916) 445-4072

jennifer.shaffer@cdcr.ca.gov

Carla Shelton, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

carla.shelton@csm.ca.gov

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

camille.shelton@csm.ca.gov

Natalie Sidarous, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7453

nSidarous@sco.ca.gov

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov

Joe Stephenshaw, Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

Tracy Sullivan, Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8124
tsullivan@counties.org

Tracy Sullivan, Legislative Analyst, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
tsullivan@counties.org

Derk Symons, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

Jolene Tollenaar, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Evelyn Tseng, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

Brian Uhler, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

Renee Wellhouse, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

Hasmik Yaghobyan, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov