

COMMISSION ON STATE MANDATES

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October 13, 2011

Ms. Juliana Gmur
MAXIMUS
2380 Houston Avenue
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Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

Ms. Evelyn Tseng
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92659

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

RE: **Final Staff Analysis and Proposed Statewide Cost Estimate**

Crime Statistics Reports for the Department of Justice, 02-TC-04 and 02-TC-11
Penal Code Sections 12025(h)(1) and (h)(3), 12031(m)(1) and (m)(3), 13014, 13023,
and 13730(a)

Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes
1993, Chapter 1230 (AB 2250); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999,
Chapter 571 (AB 491); and Statutes 2000, Chapter 626 (AB 715); and

Crime Statistics Reports for the Department of Justice Amended, 07-TC-10
Penal Code Section 13023

Statutes 2004, Chapter 700 (SB 1234)

City of Newport Beach and County of Sacramento, Claimants

Dear Ms. Gmur, Ms. Gust, and Ms. Tseng:

The final staff analysis and proposed statewide cost estimate are enclosed.

Hearing

This matter is set for hearing on **Thursday, October 27, 2011** at 9:00 a.m. in Room 447,
State Capitol, Sacramento, CA. This matter is proposed for the Consent Calendar. 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(c)(2) of the Commission's regulations. (Cal. Code Regs., tit. 2,
§ 1183.01(c)(2).)

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening
device, materials in an alternate format, or any other accommodations, please contact the
Commission office at least five to seven *working* days prior to the hearing.

Please contact Heidi Palchik at (916) 323-8218 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Bohan".

Drew Bohan
Executive Director

ITEM 12
FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE
\$122,638,312

Penal Code Sections 12025(h)(1) and (h)(3), 12031(m)(1)
and (m)(3), 13014, 13023, and 13730(a)

Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993,
Chapter 1230 (AB 2250); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571
(AB 491); and Statutes 2000, Chapter 626 (AB 715)

Crime Statistics Reports for the Department of Justice
02-TC-04 and 02-TC-11

and

Penal Code Section 13023

Statutes 2004, Chapter 700 (SB 1234)

Crime Statistics Reports for the Department of Justice Amended
07-TC-10

City of Newport Beach and County of Sacramento, Claimants

STAFF ANALYSIS

Background and Summary of the Mandates

The test claim statutes address crime statistics reporting activities of local government entities and local law enforcement agencies.

On June 26, 2008, the Commission on State Mandates (Commission) considered the *Crime Statistics Reports for the Department of Justice* test claims (02-TC-04 and 02-TC-11) and determined that, beginning July 1, 2001, the test claim statutes impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide the California Department of Justice (DOJ) with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background (Pen. Code, § 13014).
- Local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin (Pen. Code, § 13023).

- For district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. The Commission found that this is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period for this test claim) until January 1, 2005 (Pen. Code, §§ 12025(h)(1) & (h)(3) & 12031(m)(1) & (m)(3)).
- For local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report (Pen. Code, § 13730(a), Stats. 1993, ch. 1230).

On July 31, 2009, the Commission considered the *Crime Statistics Reports for the Department of Justice Amended* test claim (07-TC-10). The claim was originally filed as an amendment to, and severed from, test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*. The Commission determined that Penal Code section 13023 (Stats. 2004, ch. 700) imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution on local law enforcement agencies to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability; (2) gender; (3) nationality; (4) race or ethnicity; (5) religion; (6) sexual orientation.
- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics*: (1) disability; (2) gender; (3) nationality; (4) race or ethnicity; (5) religion; (6) sexual orientation.

On April 12, 2010, the Commission issued a corrected statement of decision in *Crime Statistics Reports for the Department of Justice Amended* (07-TC-10) to correctly identify the operative and effective date of Penal Code section 13023, as amended by Statutes 2004, chapter 700, as January 1, 2005.

These test claims were filed by a city and a county. Although the test claim statutes refer to “local law enforcement agencies” or “local government entity,” the Commission’s findings and decisions were limited to city and county claimants.

The Commission adopted the parameters and guidelines on September 30, 2010.¹ Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by April 6, 2011. Late claims are due by April 6, 2012.

Eligible Claimants and Reimbursement Period

Any county, city, or city and county is an eligible claimant. The reimbursement periods for mandated activities are as follows:

¹ Exhibit A.

Related Activities	Penal Code Section	Amended by Statutes/ Chapter	Reimbursable Period
Homicide Reports	13014	1992/1338	FY 2001-2002 thru 2009-2010
Domestic Violence Related Calls for Assistance	13730	1993/1230	FY 2001-2002 thru 2009-2010
Hate Crimes Reports	13023	2004/700	FY 2004-2005 (from 01/01/2005 to 06/30/2005 only) and FY 2005-2006 thru 2009-2010
Firearms Reports	12025 (h)(1), (h)(3) and 12031 (m)(1), (m)(3)	1999/571	FY2001-2002 thru 2003-2004 and FY 2004-2005 (from 07/01/2004 to 12/31/2004 only)

The Commission approved the following activities for reimbursement:

One-Time Activities

- A. Revise existing policies and procedures to reflect the ongoing activities listed in these parameters and guidelines regarding the reporting of the hate crime and demographic information required by Penal Code sections 12025(h)(1) and (h)(3), 12031(m)(1) and (m)(3), 13014, and 13023 to the California Department of Justice and the Attorney General.
- B. Revise existing policies and procedures to reflect the ongoing activities listed in these parameters and guidelines regarding the requirement in Penal Code section 13730(a) (as amended by Stats. 1993, ch. 1230) to support all domestic violence related calls for assistance with a written incident report.

Ongoing Activities

- A. Homicide Reports: (Pen. Code, § 13014; Stats. 1992, ch. 1338)

For a city, county, or city and county responsible for the investigation and prosecution of a homicide case, to provide the California Department of Justice, on a form distributed by the California Department of Justice, with demographic information about the homicide victim and the person or persons charged with the crime of homicide, including the victim’s and person’s age, gender, race, and ethnic background.

The following activities are eligible for reimbursement:

1. Extract demographic information from existing local records about the homicide victim and the person or persons charged with the crime of homicide, including the victim’s and person’s age, gender, race, and ethnic background, from local records in order to report the information to DOJ.
2. Report to the Department of Justice, on a monthly basis, demographic information about the homicide victim and the person or persons charged with the crime of homicide, including the victim’s and person’s age, gender, race, and ethnic background. Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting Systems (E-CARS) Plus, or manually by submitting DOJ Form BCIA 15 (Supplemental Homicide Report), or other form distributed in accordance with Penal Code section 13014 by the Department of Justice.

3. Verify information contained in the report or provide an additional explanation about the report when specifically requested by the Department of Justice.

Reimbursement is not required to review and edit every report.

B. Hate Crime Reports: (Pen. Code, § 13023; Stats. 1989, ch. 1172; Stats. 1998, ch. 933; Stats. 2000, ch. 626; Stats. 2004, ch. 700)

For city, county, and city and county law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes:

The following activities are eligible for reimbursement:

1. Extract the information required by the Attorney General relative to hate crimes from existing law enforcement records in order to report the information to the Department of Justice.²
2. Report to the Department of Justice on an annual and monthly basis, in a manner prescribed by the Attorney General, the information required relative to hate crimes. Reporting may be accomplished electronically via the Hate Crime Analysis, Tracking & Evaluation (HATE) System, manually by submitting the agency crime report, or any other manner prescribed by the Attorney General.
3. Verify information contained in the report or provide an additional explanation about the report when specifically requested by the Department of Justice.

Reimbursement is not required to review and edit every report.

C. Firearm Reports: (Pen. Code, §§ 12025(h)(1) & (h)(3) & 12031(m)(1) & (m)(3); Stats. 1999, ch. 571)

For district attorneys to submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity for any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.

The following activities are eligible for reimbursement *from July 1, 2001, through December 31, 2004 only*:

1. Extract the following information from law enforcement records in order to report the information to the Attorney General: race, age, gender, and ethnicity for any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.
2. Report to the Attorney General on Form CJSC 4, or in another manner prescribed by the Attorney General, profiles by race, age, gender, and

² Penal Code section 13023 was amended in 2004 to clarify the definition of “hate crime” as provided in Penal Code section 422.55. (Stats. 2004, ch. 700.)

ethnicity for any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.

Reimbursement is not required to review and edit the report.

D. Domestic Violence Related Calls for Assistance: (Pen. Code, § 13730(a); Stats. 1993, ch. 1230)

The following activity, performed by city, county, and city and county law enforcement agencies, is eligible for reimbursement:

1. Support all domestic-violence related calls for assistance with a written incident report.
2. Review and edit the report.

Statewide Cost Estimate

Staff reviewed the reimbursement claims data submitted by 231 cities and 35 counties and compiled by the SCO, and a random sample of reimbursement claims. The actual claims data showed that 2,258 claims were filed for 9 fiscal years for a total of \$122,638,312.³ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are currently 482 cities and 58 counties in California. Of those, only 231 cities and 35 counties filed reimbursement claims for this program between 2001 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until April 6, 2012.

2. *The costs of this program will vary from year to year, based on the annual number of domestic violence incidents.*

This program requires local entities to: (1) file three annual reports with Department of Justice on various crimes; and (2) write and edit an incident report for each domestic violence related call for assistance. Reimbursement for filing the annual reports should remain static over time. However, the cost of this program for completing domestic violence incident reports will vary depending on the number of domestic violence incident calls that occur in each local jurisdiction.

3. *There may be several reasons that non-claiming cities and counties did not file for reimbursement, including but not limited to:*

- The Commission approved only a portion of this program as a mandate. Therefore, some cities and counties may not be able to reach the \$1,000 threshold for filing annual reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

³ Claims data reported as of September 19, 2011.

4. *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO conducted a preliminary desk review of these claims and approved them for reimbursement. However, the SCO reduced claims for various reasons, such as deducting penalties for late filings. The SCO may also conduct full field audits, and reduce any claims it deems to be excessive or unreasonable.

Methodology

Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 2,258 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes nine fiscal years for a total of \$122,638,312 for the *Crime Statistics Reports for the Department of Justice Amended* program. This averages to \$13,626,479 annually in costs for the state for this nine-year period.

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

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2001-2002	233	\$11,181,471
2002-2003	238	\$11,947,685
2003-2004	244	\$12,796,745
2004-2005	248	\$13,574,057
2005-2006	251	\$13,649,085
2006-2007	254	\$14,050,583
2007-2008	260	\$14,957,255
2008-2009	264	\$15,163,419
2009-2010	266	\$15,318,012
TOTAL	2,258	\$122,638,312

Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate

On September 21, 2011, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.⁴ No comments were received.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$122,638,312** for costs incurred in complying with the *Crime Statistics Reports for the Department of Justice Amended* program.

⁴ Exhibit B.

Commission on State Mandates

Original List Date: 9/27/2001
Last Updated: 10/13/2011
List Print Date: 10/13/2011
Claim Number: 02-TC-04, 11 and 07-TC-10
Issue: Crime Statistic Reports for the Department of Justice

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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