

ITEM 21
FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE

Government Code Section 27521.1
Statutes 2000, Chapter 284

Postmortem Examinations: Unidentified Bodies, Human Remains (00-TC-18)

County of Los Angeles, Claimant

Table of Contents

Staff Analysis..... 1

Exhibit A
Statement of Decision adopted September 25, 2003 101

Exhibit B
E-mail communication from Department of Justice staff dated February 25, 2005 119

Exhibit C
E-mail communication from County of Los Angeles dated June 13, 2005..... 121

ITEM 21
FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE

Government Code Section 27521.1

Statutes 2000, Chapter 284

Postmortem Examinations: Unidentified Bodies, Human Remains (00-TC-18)

County of Los Angeles, Claimant

EXECUTIVE SUMMARY

Summary of the Mandate

The *Postmortem Examinations: Unidentified Bodies, Human Remains* program requires local law enforcement agencies investigating the death of an unidentified person to report the death to the Department of Justice (DOJ), in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. Reimbursement is not required for "children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213."

The claimant filed the test claim on June 29, 2001. The Commission adopted the Statement of Decision on September 25, 2003, and the parameters and guidelines on July 29, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 1, 2005. The SCO provided the unaudited claims totals to the Commission on February 16, 2005, which included only six claims filed by two of the state's 58 counties.

Staff made the following assumptions:

1. The unaudited claiming data is inaccurate because the County of Los Angeles' claims include non-reimbursable costs. Thus, staff only included the county's claimed amounts for "Filing reports to DOJ," a total of \$84,600, in the proposed statewide cost estimate. The county also reported a greater number of cases than DOJ claims to have received; however, staff does not have sufficient evidence to further reduce the total claimed by the County of Los Angeles.
2. The actual amount claimed will increase if late or amended claims are filed. However, staff does not expect any late claims to be filed because most counties will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, as this program is limited to one activity.
3. The SCO may reduce any reimbursement claim for this program.
4. For future year projections, only the costs to carry out the reimbursable activity will increase.

Staff used the unaudited claims data to develop this proposed statewide cost estimate. It includes six fiscal years for a total of \$142,139, which averages to \$23,690 annually in costs to the state. Staff issued a draft staff analysis on June 11, 2005, but no comments were received.

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

Fiscal Year	Number of Claims Filed with SCO	Claim Totals
2000-2001	1	\$ 11,532
2001-2002	1	24,425
2002-2003	2	25,984
2003-2004	2	25,920
2004-2005 (est.)	N/A	26,672
2005-2006 (est.)	N/A	27,606
TOTALS	6	\$ 142,139

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$142,139 for costs incurred in complying with the *Postmortem Examinations: Unidentified Bodies, Human Remains* program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology, will be reported to the Legislature.

STAFF ANALYSIS

Summary of the Mandate

On September 25, 2003, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Government Code section 27521.1 imposes a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The mandate is for local law enforcement agencies investigating the death of an unidentified person to report the death to the Department of Justice (DOJ), in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. Reimbursement is not required for "children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213."

The claimant filed the test claim on June 29, 2001. The Commission adopted the Statement of Decision on September 25, 2003, and the parameters and guidelines on July 29, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 1, 2005. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activity

The Commission approved the following reimbursable activity performed by local law enforcement personnel:

1. Initial reporting of the death of an unidentified person to the DOJ, in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. Reimbursement is not required for "children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213."¹ Reimbursement is limited to submitting the following mandatory information to DOJ to complete the 10-day report:
 - a. Originating agency case number
 - b. Originating agency identification number
 - c. Date subject's body was found
 - d. Cause and manner of subject's death
 - e. Subject's estimated date of death
 - f. Subject's eye color
 - g. Subject's hair color
 - h. Subject's race or ethnicity
 - i. Subject's sex
 - j. Subject's height
 - k. Subject's approximate weight

¹ This exclusion from the mandate refers to children under 12, or certain persons who have been reported missing and subsequently found. These are excluded because law enforcement is already required to report them to the DOJ.

- l. Subject's approximate age range
- m. Status of subject's body parts
- n. Subject's fingerprint classification
- o. Availability of subject's dental chart/x-rays
- p. Availability of subject's body/skeletal x-rays
- q. Availability of subject's footprint
- r. Identification of any scars, marks, or tattoos on subject

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Initial reimbursement claims were due to the SCO by February 1, 2005, and were provided to the Commission on February 16, 2005. Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology, will be reported to the Legislature.

Assumptions

- 1. *The claiming data is unaudited and inaccurate.* The statewide cost estimate is based on six unaudited, actual claims filed by two local agencies for fiscal years 2000-2001 through 2003-2004.²
 - a. *The County of Los Angeles' claims include non-reimbursable costs.* The County of Los Angeles' claims account for over 99 percent of total claims filed on the *Postmortem Examinations: Unidentified Bodies, Human Remains* program.³ Table 1 below shows the County of Los Angeles' claimed costs by fiscal year.

TABLE 1. Costs Claimed by the County of Los Angeles

Fiscal Year	Claimed Cost
2000-2001	\$ 243,898
2001-2002	506,833
2002-2003	525,131
2003-2004	520,620
Total	\$ 1,796,482

After reviewing the claims and the adopted parameters and guidelines, staff determined that the County of Los Angeles' claims include costs that the Commission determined to be non-reimbursable. Table 2 below shows a breakdown of the county's claims as evidenced by the documentation submitted with their reimbursement claims.

² Claims data reported by the SCO as of February 16, 2005.

³ The total amount of claims filed with the SCO for this program is \$1,799,743.

TABLE 2. Breakdown of Costs Claimed by the County of Los Angeles

Fiscal Year	Description of Expenses	Claimed Cost
2000-2001	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	\$ 188,234.96
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	44,131.50
	Filing reports to DOJ	11,531.95
2001-2002	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	431,457.72
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	50,951.37
	Filing reports to DOJ	24,425.26
2002-2003	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	434,196.70
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	66,410.76
	Filing reports to DOJ	24,523.07
2003-2004	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Scene death	474,485.38
	Investigation and establishing identity of descendents including any required anthropology & archaeology services. Dental X-rays, Body X-Rays – At Hospital death	22,015.20
	Filing reports to DOJ	24,120.16

The parameters and guidelines for this program only provide reimbursement for the initial reporting of the death of an unidentified person to the DOJ. The Commission expressly found that conducting medical examinations and completing the final report of investigation pursuant to Health and Safety Code section 102870 and Government Code section 27521 are not reimbursable because these activities are a result of the coroner's discretionary autopsy.⁴

Therefore, staff only included the county's claimed amounts for "Filing reports to DOJ," a total of \$84,600, in the proposed statewide cost estimate.

- b. *The County of Los Angeles claims a greater number of cases reported than DOJ claims to have received.* Staff notes that the County of Los Angeles reported a greater number of reports made to DOJ than DOJ claims to have received from all counties. In February 2005, staff requested DOJ to provide the number of 10-day

⁴ Exhibit A, Statement of Decision.

reports it received pursuant to the *Postmortem Examinations: Unidentified Bodies, Human Remains* program. Table 3 below shows “the [number of] reports of unidentified persons entered into the Department of Justice, Missing and Unidentified Persons System”⁵ versus the number of cases reported by the County of Los Angeles, as indicated in their reimbursement claims.

TABLE 3. Number of Cases Reported Versus Number of Reports Received

County of Los Angeles		Department of Justice	
Fiscal Year	Cases Reported	Calendar Year	Reports Received
2000-2001	153	2000	159
2001-2002	305	2001	142
2002-2003	295	2002	180
2003-2004	284	2003	193
		2004	266

In support of its numbers, the County of Los Angeles stated, “...the Coroner counted the number of persons who were identified just before the 10-day period was expired as unidentified... [S]ince they had performed all the requirements of the 10-day report...they felt that they were eligible for reimbursement.”⁶

However, despite the discrepancy, staff does not have sufficient evidence to further reduce the total claimed by the County of Los Angeles because it is unclear whether DOJ counts reports made for bodies that are later identified. Also, staff notes that the County of Los Angeles reported the number of cases reported in a *fiscal year*, whereas DOJ entered reports into their Missing and Unidentified Persons System by *calendar year*. DOJ was not able to provide a breakdown of reports made by month or by county.

2. *The actual amount claimed will increase if late or amended claims are filed.* The claims data includes only six claims filed by two of the state’s 58 counties. While late claims may be filed for this program until February 2006, additional claims are not expected because most counties will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, as this program is limited to one activity.
3. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.
4. *For future year projections, only the costs to carry out the activity will increase.* For purposes of projecting fiscal years 2004-2005 and 2005-2006, staff assumes that no other counties will file claims and that the number of reports made will not increase. Future costs are projected using the implicit price deflator as forecast by the Department of Finance.

⁵ Exhibit B.

⁶ Exhibit C.

Methodology

2000-2004 Costs

The proposed statewide cost estimate for fiscal years 2000-2001 through 2003-2004 is based on six unaudited, actual reimbursement claims. However, Commission staff adjusted the total claimed by the County of Los Angeles to eliminate non-reimbursable activities, as described above.

2004-2006 Projected Costs

Staff projected totals for fiscal year 2004-2005 by multiplying the total for 2003-2004 reimbursement claims by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance. Staff projected totals for fiscal year 2005-2006 by multiplying the estimate for 2004-2005 by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance.

The proposed statewide cost estimate includes six fiscal years for a total of **\$142,139**. This averages to \$23,690 annually in costs to the state. Staff issued a draft staff analysis on June 11, 2005, but no comments were received.

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

Table 4. Estimated Total Costs per Fiscal Year

Fiscal Year	Number of Claims Filed with SCO	Claim Totals
2000-2001	1	\$ 11,532
2001-2002	1	24,425
2002-2003	2	25,984
2003-2004	2	25,920
2004-2005 (est.)	N/A	26,672
2005-2006 (est.)	N/A	27,606
TOTALS	6	\$ 142,139

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$142,139 for costs incurred in complying with the *Postmortem Examinations: Unidentified Bodies, Human Remains* program.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Sections 27521, 2752 1.1
Health and Safety Code Section 102870, Penal
Code Section 14202, Statutes 2000, Chapter
284

Filed on June 29, 2001,

By County of Los Angeles, Claimant.

No. 00-TC- 18

*Postmortem Examinations: Unidentified
Bodies, Human Remains*

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 September 25, 2003)

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

9/26/2003
Date

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Sections 27521, 27521.1
Health and Safety Code Section 102870, Penal
Code Section 14202, Statutes 2000, Chapter
284

Filed on June 29, 2001,

By County of Los Angeles, Claimant.

No. 00-TC-18

*Postmortem Examinations: Unidentified
Bodies, Human Remains*

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 September 25, 2003)

STATEMENT OF DECISION

The Commission heard and decided this test claim on July 31, 2003, during a regularly scheduled hearing. Leonard Kaye and David Campbell appeared on behalf of claimant County of Los Angeles. Susan Geanacou appeared on behalf of the Department of Finance (DOF).

At the hearing, testimony was given, the test claim was submitted, and the vote was taken.

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 approved this test claim by a 5-0 vote.

BACKGROUND

Test claim legislation: The test claim legislation¹ states that a postmortem examination or autopsy² conducted at the discretion of the coroner on an unidentified body or human remains shall include the following activities:

- (1) taking all available fingerprints and palm prints;
- (2) a dental exam consisting of dental charts and dental X-rays;
- (3) collection of tissue, including a hair sample, or body fluid samples for future DNA testing, if necessary;
- (4) frontal and lateral facial photographs with the scale indicated;
- (5) notation and photos, with a scale, of significant scars, marks, tattoos, clothing items, or other personal effects found with or near the body;

¹ Statutes 2000, chapter 284; Government Code sections 27521, 27521.1, Health and Safety Code section 102870, Penal Code section 14202.

² The terms "autopsy" and "postmortem exam," both in the test claim statute, are synonymous. "Autopsy" is primarily used hereafter.

- (6) notations of observations pertinent to the estimation of the time of death; and
- (7) precise documentation of the location of the remains.

The test claim legislation authorizes the examination or autopsy to include full body X-rays, and requires the coroner to prepare a final report of investigation in a format established by the Department of Justice (DOJ).

In addition, the jaws and other tissue samples must be removed and retained for one year after identification of the deceased, and no civil or criminal challenges are pending, or indefinitely. If the coroner is unable to establish the identity of the deceased, the coroner must (1) submit dental charts and dental X-rays of the unidentified body to the DOJ on forms supplied by the DOJ within 45 days of the date the body or human remains were discovered; and (2) submit the final report of investigation to the DOJ within 180 days of the date the body or remains were discovered. If the coroner cannot establish the identity of the body or remains, a dentist may examine the body or remains, and if the body still cannot be identified, the coroner must prepare and forward the dental examination record to DOJ. Law enforcement must report the death of an unidentified person to DOJ no later than 10 calendar days after the date the body or remains are discovered.

The test claim legislation was sponsored by the California Society of Forensic Dentistry in response to years of volunteer consultant work by members of the Society helping DOJ identify more than 2,200 unidentified dead persons in California. The sponsors argued that the ways in which evidence was collected or retained was inconsistent, and that information reported to the DOJ varied from very inadequate to extremely detailed. The sponsors also indicated that unidentified bodies had been buried or cremated without retaining evidence that could later assist in identifying them.³

Coroner duties: Each county in California performs the coroner's functions as defined in the California Government Code, the Health and Safety Code, the Penal Code and various other codes and regulations. The office of coroner may be elective or appointive,⁴ or may be abolished and replaced by the office of medical examiner,⁵ or may be consolidated with the duties of the public administrator, district attorney or sheriff.⁶ Coroners and deputy coroners are peace officers.⁷

Pre-1975 statutes require coroners to inquire into and determine the circumstances, manner and causes of certain types of deaths. The coroner's duty is to investigate these deaths and ascertain the cause and time of death, which must be stated on the death certificate.⁸ The types of death

³ Senate Rules Committee, Office of Senate Floor Analyses, third reading analysis of Senate Bill No. 1736 (1999-2000 Reg. Sess.) as amended August 8, 2000, page 4.

⁴ Government Code section 24009.

⁵ Government Code section 24010. Any reference to "coroners" in this analysis includes medical examiners, deputy coroners, or peace officers that perform the same duties.

⁶ Government Code section 24300.

⁷ Penal Code section 830.35, subdivision (c).

⁸ Health and Safety Code sections 102855 and 102860.

over which the coroner has jurisdiction, as listed in Government Code section 27491 and Health and Safety Code section 102850, are those that are:

- Violent, sudden or unusual;
- Unattended;
- Where the deceased has not been attended by a physician in the 20 days before death;
- Self-induced or criminal abortion;
- Known or suspected homicide, suicide or accidental poisoning;
- By recent or old injury or accident;
- Drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration;
- Suspected sudden infant death syndrome;
- By criminal means;
- Associated with known or alleged rape or crime against nature;
- In prison or while under sentence;
- By known or suspected contagious disease constituting a public hazard;
- By occupational disease or hazard;
- Of a state mental hospital patient;
- Of a developmentally disabled patient in state developmental services hospital.
- Under circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another.
- Where the attending physician and surgeon or physician assistant is unable to state the cause of death.⁹

When the coroner investigates one of these types of deaths, he or she signs the death certificate.¹⁰ In deaths where it is reasonable to suspect criminal means, the coroner must report the death to local law enforcement, along with all information received by the coroner relating to the death.¹¹

In order to carry out the duties of office in investigating death in accordance with applicable statutes, it is necessary that the coroner have wide discretion in ordering an autopsy when, in the coroner's judgment, it is the appropriate means of ascertaining the cause of death.¹² This is still true as evidenced by the express discretion granted the coroner in the statutory scheme. For example, the coroner has "discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances" and falling within Government Code section 27491 (the types of death over which the coroner has jurisdiction).¹³ The coroner also "may, in his or her discretion, take possession of the body..."¹⁴ and "allow removal of parts of the body by a licensed physician and surgeon or trained transplant technician" for transplant or scientific

⁹ Government Code section 27491 and Health and Safety Code section 102850.

¹⁰ Government Code section 27491.

¹¹ Government Code section 27491.1.

¹² *Huntley v. Zurich General Acc. & Liability Ins. Co.* (1929) 100 Cal. App. 201, 213-214. 20 Opinions of the California Attorney General 145 (1952).

¹³ Government Code section 27491.

¹⁴ Government Code section 27491.4.

purposes, under certain conditions.¹⁵ Currently, the only instances in which an autopsy is required by law, i.e., outside the coroner's discretion, is if a spouse (or if none, surviving child or parent or next of kin) requests it in writing,¹⁶ or if the suspected cause of death is Sudden Infant Death Syndrome (SIDS).¹⁷ Even in SIDS cases, the coroner has discretion in deciding whether to autopsy if the physician desires to certify the cause of death is SIDS.¹⁸

For unidentified bodies, existing law states that coroners shall forward dental examination records to the DOJ if all of the following apply: (1) the coroner investigates the death, (2) the coroner is unable to establish the identity of the body or remains by visual means, fingerprints or other identifying data, and (3) the coroner has a dentist conduct a dental examination of the body or remains and still cannot identify the deceased.¹⁹ Preexisting law authorizes but does not require law enforcement to submit dental or skeletal X-rays to DOJ for missing persons.²⁰

A coroner may be liable for "omission of an official duty."²¹ In *Davila v. County of Los Angeles*,²² the county was found negligent for cremating a body without notifying kin. The court held that a coroner has a duty to act with reasonable diligence to locate a family member of a body placed in the coroner's custody before disposing of it. In *Davila*, the court started its analysis by restating and examining Government Code section 815.6:

"[w]here a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty." For liability to attach under this statute, (1) there must be an enactment imposing a mandatory duty, (2) the enactment must be intended to protect against the risk of the kind of injury suffered by the individual asserting liability, and (3) the breach of the duty must be the cause of the injury suffered. [citation.]

In finding the mandatory duty to notify the family, the *Davila* court stated:

[T]he existence of a mandatory duty is established by Government Code section 27471 subdivision (a): "Whenever the coroner takes custody of a dead body pursuant to law, he or she *shall make a reasonable attempt to locate the family.*" [FN1] (Italics added.) The same duty is reflected in Health and Safety Code sections 7104 (when the person with the duty of interment "cannot *after reasonable diligence* be found ... the coroner shall

¹⁵ Government Code section 27491.45, subdivision (b).

¹⁶ Government Code section 27520. This section states that the requestor pays the autopsy costs.

¹⁷ Government Code sections 27491, subdivision (a) and 27491.41, subdivision (c).

¹⁸ Government Code sections 27491.41, subdivision (c) (2).

¹⁹ Health and Safety Code section 102870.

²⁰ Penal Code section 14206, subdivisions (a)(2) and (b).

²¹ Code of Civil Procedure section 339 states the statute of limitations is two years. The duties are outlined in Government Code section 27491 and Health and Safety Code section 102850.

²² *Davila v. County of Los Angeles* (1996) 50 Cal.App.4th 137, 143.

inter the remains") and 7104.1 (if within "30 days after the coroner notifies or diligently attempts to notify the person responsible for the interment ... the person fails, refuses, or neglects to inter the remains, the coroner may inter the remains"). (Italics added.) Quite clearly, the coroner had a mandatory duty to make a reasonable attempt to locate decedent's family. [citation.]²³

Davila implies a coroner also has a duty of reasonable diligence to identify a body because it is necessary to identify the deceased in order to locate the deceased's family.

Related programs: In 1979, California became the first state to implement a statewide Dental Identification Program to process dental records submitted by law enforcement agencies and coroners in California and other states. The DOJ classifies, indexes, and compares dental records of missing and unidentified persons against each other for matches.²⁴

In 1998, the Legislature enacted the DNA and Forensic Identification Data Base and Data Bank Act to assist in prosecuting crimes and identifying missing persons. This database consists of DNA samples of those convicted of specified felonies.²⁵

The DOJ administers the Violent Crime Information Center to assist in identifying and apprehending persons responsible for specific violent crimes, and for the disappearance and exploitation of persons, particularly children and dependent adults.²⁶

The DOJ also keeps a DNA database in which law enforcement collects samples for DNA analysis voluntarily submitted by family members or relatives of a missing person, and the coroner collects samples from the unidentified deceased. Those samples are sent to DOJ for DNA analysis and comparison.²⁷

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 seeks reimbursement for the activities related to postmortem examinations of unidentified bodies and human remains and reporting the death of unidentified persons to the DOJ. Specifically, claimant alleges the following activities are now required relating to a postmortem examination or autopsy:

²³ *Id.* at page 140.

²⁴ California Department of Justice, Office of the Attorney General's website <<http://www.ag.ca.gov/missing/content/dental.htm>> [as of April 18, 2003]. Former Health and Safety Code section 10254 (Stats. 1978, ch. 462) was repealed in 1995 (Stats. 1995, ch. 415).

²⁵ Penal Code section 295 et. seq. The list of felonies is in Penal Code section 296.

²⁶ Penal Code section 14200 et. seq.

²⁷ Penal Code section 14250. California Department of Justice, Office of the Attorney General's website <<http://www.ag.ca.gov/missing/content/dna.htm>> [as of April 18, 2003]. This program is the subject of the DNA database test claim filed by the County of San Bernardino (00-TC-27).

- Develop policies and procedures for the initial and continuing implementation of the subject law;
- Perform autopsies, including any required microscopic, toxicology, and microbiological testing, photographs, fingerprints, tissue sampling for future DNA testing, X-ray notation at the time of death, location of the death, dental examination, and preparing the final report to the DOJ;
- Storage and autopsy samples under appropriate conditions, including tissue and fluids, in proper receptacles, and allowing access as necessary for periods of time as required by the autopsy protocol;
- Death scene investigation and related interviews, evidence collection, including specimens and photographs, and travel as required for the fulfillment of the requirements, including travel to pick up a body for autopsy, and to return the body to the original county, if it has been transported out of the county for autopsy;
- Train departmental personnel to prepare the final report to the DOJ;
- Participation in workshops within the state for ongoing professional training as necessary to satisfy standards required by the subject law.

Claimant notes that similar duties to those above were found reimbursable, as evidenced by the State Controller's Office Claiming Instructions for the "Sudden Infant Death Syndrome (SIDS) Autopsy Protocol Program."²⁸

Claimant also responds to the DOF's contention (stated below) that the activities of the test claim legislation are discretionary by arguing that the coroner, under Government Code section 27491, has a statutory duty to "inquire into and determine the circumstances, manner, and cause of" death and conduct necessary inquiries to determine, among other things, whether the death was "violent, sudden, or unusual," "unattended," and if the deceased had "not been attended by a physician in the 20 days before death." Claimant contends that this mandatory inquiry has been supplemented, pursuant to Government Code section 27521 of the test claim statute, to determine the identity of the deceased. Claimant states that prior to the test claim legislation certain activities, such as taking palm prints and hair samples, had been limited to homicide victims.

Claimant, in its 6/23/03 amendment to this test claim, comments that the coroner's duties are mandatory, not discretionary. Claimant states that irrespective of the type of postmortem inquiry, examination or autopsy employed by the coroner to complete the mandatory determination of the circumstances, manner and cause of death of an unidentified body or human remains pursuant to Government Code section 27491, further mandatory duties to identify the deceased were added by Government Code section 27521. Those duties include:

1. Taking all available fingerprints and palm prints;
2. A dental examination consisting of dental charts and dental X-rays of the deceased's teeth;
3. Collection of tissue, including a hair sample, or body fluid samples for future DNA tests;

²⁸ Claimant refers to CSM# 4393, a test claim on Statutes 1989, chapter 955, entitled *Sudden Infant Death Syndrome Autopsies*, which was found to be a reimbursable mandate.

4. Frontal and lateral facial photos with scale indicated;
5. Notation and photos, with a scale, of significant scars, marks, tattoos, clothing, or personal effects found with or near the body;
6. Notations of observations pertinent to estimating the time of death;
7. Precise documentation of location of the remains.

Claimant further commented that the remaining provisions of section 27521, as discussed below, are mandatory. Government Code section 27521, subdivision (b), which lists the seven activities above, is explicit in what a postmortem examination, for purposes of determining identity, shall include. According to claimant, before the test claim legislation, the following activities were not mandated: (1) frontal and lateral facial photos with scale indicated; (2) retention of jaws and other tissue samples for future possible use (as now required by subdivision (e) of section 27521); (3) storage of material used in positive identification of the body.

State Agency Position

In its comments on the test claim, DOF states that pursuant to Government Code section 27491, the decision by a coroner to examine unidentified remains (other than DNA sampling) is a discretionary act that is not required by the state, nor was it required prior to the test claim legislation. Any subsequent requirements, according to DOF, regarding autopsy procedures are only initiated when a coroner chooses to examine unidentified remains.

DOF argues that the investigating law enforcement agency's report to DOJ is discretionary because it is only initiated after the local agency exercises discretion to investigate a case. Thus, DOF concludes that this test claim does not contain a state mandate that has resulted in a new program or higher level of service and a reimbursable cost.

DOF did not comment on the draft staff analysis.

COMMISSION FINDINGS

In order for the test claim legislation to impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514, the statutory language must mandate a new program or an increased or higher level of service over the former required level of service. "Mandates" as used in article XIII B, section 6, is defined to mean "orders" or "commands."²⁹ The California Supreme Court has defined "program" subject to article XIII B, section 6 of the California Constitution 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.³⁰ 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 the enactment of the test claim legislation.³¹ Finally, the new program or increased level of service must impose "costs mandated by the state."³²

²⁹ *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 174.

³⁰ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

³¹ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

³² Government Code section 17514.

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 officials within the meaning of article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

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

A. Does the test claim legislation impose state-mandated duties?

Article XIII B, section 6 of the California Constitution provides, with exceptions not relevant here, that "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." This constitutional provision was specifically intended to prevent the state from forcing programs on local government that require expenditure by local governments of their tax revenues.³³ In this respect, the California Supreme Court and the courts of appeal have held that article XIII B, section 6 was not intended to entitle local agencies and school districts to reimbursement for all costs resulting from legislative enactments, but only those costs "mandated" by a new program or higher level of service imposed upon them by the state.³⁴

To implement article XIII B, section 6, the Legislature enacted section 17500 and following. Section 17514 defines "costs mandated by the state" as "any increased costs which a local agency or school district is required to incur . . . as a result of any statute. . . 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." Mandate is defined as "orders" or "commands."³⁵ Thus, in order for a statute to be subject to article XIII B, section 6, the statutory language must command or order an activity or task on local governmental agencies. If the statutory language does not mandate coroners to perform a task, then compliance with the test claim statute is at the option of the coroner and a reimbursable state mandated program does not exist.

The question of whether a test claim statute is a state-mandated program within the meaning of article XIII B, section 6 is purely a question of law.³⁶ Thus, based on the principles outlined

³³ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles*, (1987) 43 Cal.3d 46, 56; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

³⁴ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 834; *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816.

³⁵ *Long Beach Unified School District v. State of California* (1990) 225 Cal. App. 3d 155, 174.

³⁶ *City of San Jose v. State of California*, *supra*, 45 Cal.App.4th 1802, 1810.

below, when making the determination on this issue, the Commission, like the court, is bound by the rules of statutory construction.

Health and Safety Code section 102870: This section, enacted in 1995, requires coroners to forward dental examination records to the DOJ if all of the following apply: (1) the coroner investigates the death, (2) the coroner is unable to establish the identity of the body or remains by visual means, fingerprints or other identifying data, and (3) the coroner has a dentist conduct a dental examination of the body or remains and still cannot identify the deceased.

The test claim statute (Stats. 2000, ch. 284) technically amended subdivision (b) of section 102870 to refer to Government Code section 27521 and to the Violent Crime Information Center.³⁷ This amendment to the test claim statute does not impose any state-mandated duties on local agencies. Because this amendment to section 102870 imposes no state-mandated duty, the Commission finds that section 102870, as amended by Statutes 2000, chapter 284, is not subject to article XIII B, section 6.

Penal Code section 14202: This section, operative since 1989, requires the DOJ to maintain the Violent Crime Information Center. The test claim statute (Stats. 2000, ch. 284) technically amended Penal Code section 14202 by adding a reference to Government Code section 27521. This amendment to the test claim statute does not impose any state-mandated duties on local agencies. Therefore, because this amendment imposes no state-mandated duty, the Commission finds that Penal Code section 14202, as amended by Statutes 2000, chapter 284, is not subject to article XIII B, section 6.

Government Code section 27521: This section specifies that autopsies conducted at the discretion of the coroner shall include collecting identifying data on the unidentified body or human remains and reporting the data to DOJ. Subdivision (a) states that any autopsy conducted "at the discretion" of a coroner on an unidentified body or human remains shall be subject to section 27521.

Subdivision (b) states that county coroners are to include the following data in the discretionary autopsies:

1. All available fingerprints and palm prints;
2. A dental examination consisting of dental charts and dental X-rays of the deceased person's teeth, which may be conducted on the body or human remains by a qualified dentist as determined by the coroner;
3. The collection of tissue, including a hair sample, or body fluid samples for future DNA testing, if necessary;
4. Frontal and lateral facial photographs with the scale indicated;
5. Notation and photographs, with a scale, of significant scars, marks, tattoos, clothing items, or other personal effects found with or near the body;
6. Notations of observations pertinent to the estimation of the time of death;
7. Precise documentation of the location of the remains.

³⁷ As stated above under related programs, the Violent Crime Information Center is administered by DOJ to assist in identifying and apprehending persons responsible for specific violent crimes, and for the disappearance and exploitation of persons. (Pen. Code, § 14200 et. seq.).

Subdivision (c) states that the examination or autopsy "may include full body X-rays."

Subdivision (d) states the coroner shall prepare a final report of investigation in a format established by DOJ, to include the autopsy information in subdivision (b).

Subdivision (e) states:

The body of an unidentified deceased person may not be cremated or buried until the jaws (maxilla and mandible with teeth) and other tissue samples are retained for future possible use. Unless the coroner has determined that the body of the unidentified deceased person has suffered significant deterioration or decomposition, the jaws shall not be removed until immediately before the body is cremated or buried. The coroner shall retain the jaws and other tissue samples for one year after a positive identification is made, and no civil or criminal challenges are pending, or indefinitely.

Subdivision (f) states:

If the coroner with the aid of the dental examination and any other identifying findings is unable to establish the identity of the body or human remains, the coroner shall submit dental charts and dental X-rays of the unidentified deceased person to the Department of Justice on forms supplied by the Department of Justice within 45 days of the date the body or human remains were discovered.

Subdivision (g) states:

If the coroner with the aid of the dental examination and other identifying findings is unable to establish the identity of the body or human remains, the coroner shall submit the final report of investigation to the Department of Justice within 180 days of the date the body or human remains were discovered.

As noted above, the DOF argues that pursuant to Government Code section 27491 (a pre-1975 statute that states the types of death over which the coroner has jurisdiction) the coroner's decision to examine unidentified remains (other than DNA sampling) is a discretionary act that is not required by the State, nor was it required prior to the test claim legislation. Any subsequent requirements, according to DOF, regarding autopsy procedures are only initiated when a coroner chooses to examine unidentified remains.

Claimant responds to DOF by arguing that the coroner, under Government Code section 27491, has a statutory duty to "inquire into and determine the circumstances, manner, and cause of" death and conduct necessary inquiries to determine, among other things, whether the death was "violent, sudden, or unusual," "unattended," and if the deceased had "not been attended by a physician in the 20 days before death." Claimant contends that these requirements have been supplemented, pursuant to Government Code section 27521 of the test claim statute, to determine the identity of the deceased.

Pursuant to the rules of statutory construction, courts and administrative agencies are required, when the statutory language is plain, to enforce the statute according to its terms. The California Supreme Court explained:

In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. We begin by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the

statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. [Citations omitted]³⁸

Subdivision (a) of Government Code section 27521 states, “[a]ny postmortem examination or autopsy conducted *at the discretion* of a coroner upon an unidentified body or human remains shall be subject to this section.” (Emphasis added.) The plain language of subdivision (a) is unambiguous in making the coroner’s autopsy activities discretionary rather than mandatory.

If a local agency decision is discretionary, no state-mandated costs will be found. In *City of Merced v. State of California*,³⁹ in which the court determined that the city’s decision to exercise eminent domain was discretionary so that no state reimbursement was required for loss of goodwill to businesses over which eminent domain was exercised, the court reasoned as follows:

We agree that the Legislature intended for payment of goodwill to be discretionary. The above authorities reveal that whether a city or county decides to exercise eminent domain is, essentially, an option of the city or county rather than a mandate of the state. *The fundamental concept is that the city or county is not required to exercise eminent domain.* [Emphasis added.]⁴⁰

The California Supreme Court has explained the *City of Merced* case as follows:

[T]he core point articulated by the court in *City of Merced* is that activities undertaken at the option or discretion of a local government entity (that is, actions undertaken without any legal compulsion or threat of penalty for nonparticipation) do not trigger a state mandate and hence do not require reimbursement of funds – even if the local entity is obligated to incur costs as a result of its discretionary decision to participate in a particular program or practice.⁴¹

The legislative history of Government Code section 27521 also indicates that its autopsy activities are not mandatory.

As introduced, the test claim legislation expressly required an autopsy in cases where the coroner could not otherwise identify the body. The original version of Senate Bill No. 1736 (Stats. 2000, ch. 284) amended Health and Safety Code section 102870, stating in relevant part:

SECTION 1. Section 102870 of the Health and Safety Code is amended to read:
102870. (a) In deaths investigated by the coroner or medical examiner where he or she is unable to establish the identity of the body or human remains by visual means, fingerprints, or other identifying data, the coroner or medical examiner ~~may have a qualified dentist, as determined by the coroner or medical examiner, carry out a dental examination of the body or human remains.~~ shall conduct a medical examination on the body or human remains that includes, but is not limited to, all the following procedures:...

³⁸ *Estate of Griswald* (2001) 25 Cal.4th 904, 910-911.

³⁹ *City of Merced v. State of California* (1984) 153 Cal. App. 3d 777, 783.

⁴⁰ *Ibid.*

⁴¹ *Department of Finance v. Commission on State Mandates* (2003) 30 Cal. 4th 727, 742.

The May 23, 2000 version amended the bill to move these unidentified body autopsy procedures to Government Code sections 27521, and to make the procedures discretionary.

Rejection of a specific provision contained in an act as originally introduced is most persuasive that the act should not be interpreted to include what was left out.⁴² Since the bill originally required an autopsy for unidentified decedents, but was amended to make the decision to perform an autopsy discretionary (keeping consistent with the statutory scheme), the autopsy should not be interpreted to be a required activity.

Therefore, because Government Code section 27521 does not constitute a state mandate, the Commission finds that this statute is not subject to article XIII B, section 6. This includes all the activities of section 27521 because they are based on the coroner's discretion to autopsy, such as submitting autopsy data, submitting the final report of investigation, retention of jaws, and submitting dental records to DOJ.

Government Code section 27521.1: This section requires a local law enforcement agency investigating the death of an unidentified person to report the death to the DOJ no later than 10 calendar days after the date the body or human remains are discovered. Because this section imposes a reporting requirement on a local agency, the Commission finds that Government Code section 27521.1 imposes a state-mandated duty and is therefore subject to article XIII B, section 6. Therefore, this statute is further discussed below.

B. Does Government Code section 27521.1 qualify as a "program"?

In order for the test claim legislation 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.⁴³ Only one of these findings is necessary to trigger article XIII B, section 6.⁴⁴

Government Code section 27521.1 involves the duty of law enforcement agencies investigating the death of an unidentified person to report the death to DOJ no later than 10 days after the body or human remains are discovered. This is a program that provides governmental functions in the areas of public safety, criminal justice, crime and vital statistics, and location of missing persons.

Moreover, Government Code section 27521.1 imposes unique data collecting and reporting duties on local law enforcement agencies that do not apply generally to all residents and entities in the state. Therefore, the Commission finds that the test claim legislation constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

⁴² *Bollinger v. San Diego Civil Service Comm.* (1999) 71 Cal. App. 4th 568, 575. *Robert Woodbury v. Patricia Brown-Dempsey* (2003) 108 Cal. App. 4th 421, 436.

⁴³ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

⁴⁴ *Carmel Valley Fire Protection Dist.* (1987) 190 Cal.App.3d 521, 537.

Issue 2: Does Government Code section 27521.1 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?

Article XIII B, section 6 of the California Constitution states, "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 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 the enactment of the test claim legislation.⁴⁵

Government Code section 27521.1, law enforcement agency report: This section requires a law enforcement agency investigating the death of an unidentified person to report the death to the DOJ, in a DOJ-approved format, within 10 days of discovery.

DOF stated that the investigating law enforcement agency's report to DOJ is discretionary because the local law enforcement agency first must choose to go forward with a criminal investigation. According to DOF, DOJ's report is only initiated after the local agency exercises discretion to investigate a case.

The Commission disagrees. Failure of peace officers to investigate criminal activities would be a dereliction of duty.⁴⁶ California law imposes on sheriffs the duty to "preserve peace,"⁴⁷ arrest "all persons who attempt to commit or who have committed a public offense,"⁴⁸ and "prevent and suppress any affrays, breaches of the peace, riots, and insurrections, and investigate public offenses which have been committed."⁴⁹ Police have the same duties.⁵⁰ These are mandatory duties, as evidenced by use of the word "shall" in the statutes.⁵¹

Preexisting law requires law enforcement to report immediately to DOJ when a person reported missing has been found.⁵² Also, for found children under 12 or found persons with evidence that they were at risk,⁵³ a report must be filed within 24 hours after the person is found. And if a missing person is found alive or dead within 24 hours and local law enforcement has reason to

⁴⁵ *Lucia Mar Unified School Dist. v. Honig, supra*, 44 Cal.3d 830, 835.

⁴⁶ *People v. Mejia* (1969) 272 Cal. App. 2d 486, 490.

⁴⁷ Government Code section 26600.

⁴⁸ Government Code section 26601.

⁴⁹ Government Code section 26602.

⁵⁰ Government Code section 41601.

⁵¹ Government Code section 14.

⁵² Penal Code section 14207.

⁵³ Evidence that the person is at risk includes, but is not limited to, (1) The person missing is the victim of a crime or foul play. 2) The person missing is in need of medical attention. 3) The person missing has no pattern of running away or disappearing. (4) The person missing may be the victim of parental abduction. (5) The person missing is mentally impaired. (Pen. Code, § 14213, subd. (b).)

believe the person was abducted, local law enforcement must also report that information to the DOJ.⁵⁴ These statutes do not require the person to be found alive.

Given that law enforcement already had to report to DOJ findings of missing persons, the new activities for finding a deceased person are limited to those in which the deceased is over 12 and not a missing person with evidence of being at risk, as defined.

Thus, the Commission finds that it is a new program or higher level of service for local law enforcement investigating the death of an unidentified person to report the death to the DOJ, in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. The exceptions is for children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213.

Issue 3: Does Government Code section 27521.1 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 costs mandated by the state.⁵⁵ 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:

...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.

In its test claim, the claimant stated it would incur costs of over \$200 per annum,⁵⁶ which was the standard under Government Code section 17564, subdivision (a) when the claim was filed.⁵⁷ There is no evidence in the record to rebut this declaration. In addition, the Commission finds that the exceptions to reimbursement in section 17556 do not apply here.

In summary, the Commission finds that Government Code section 27521.1 imposes costs mandated by the state pursuant to Government Code section 17514.

⁵⁴ Penal Code section 14207.

⁵⁵ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835. Government Code section 17514.

⁵⁶ Declaration of David Campbell, County of Los Angeles Coroner's Office.

⁵⁷ Currently the claim must exceed \$1000 in costs. (Gov. Code, § 17564, subd. (a).)

CONCLUSION

The Commission finds that Government Code section 27521.1 imposes a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The mandate is for local law enforcement investigating the death of an unidentified person to report the death to the DOJ, in a DOJ-approved format, within 10 calendar days of the date the body or human remains are discovered. The exception is for children under 12 or found persons with evidence that they were at risk, as defined by Penal Code section 14213.

The Commission also finds that Government Code section 27521, Penal Code section 14202 and Health and Safety Code section 102870, as added or amended by Statutes 2000, chapter 284, do not constitute a reimbursable state-mandated program because they are not subject to article XIII B, section 6.

Cathy Cruz

From: Greg Truax [greg.truax@doj.ca.gov]
Sent: Friday, February 25, 2005 10:06 AM
To: Cathy Cruz
Subject: RE: Unidentified Person Reports

These are all calendar year statistics.

>>> Cathy Cruz <Cathy.Cruz@csm.ca.gov> 02/25/05 8:53 AM >>>
 Thank you, Greg. Can you please clarify though if this is calendar year, or fiscal year?

Good luck with your new assignment!

Cathy Cruz
 Program Analyst

 Commission on State Mandates
 980 Ninth Street, Suite 300
 Sacramento, CA 95814
 916-323-8218 Phone
 916-445-0278 Fax

-----Original Message-----
From: Greg Truax [mailto:greg.truax@doj.ca.gov]
Sent: Friday, February 25, 2005 8:44 AM
To: Cathy Cruz
Cc: Markcurtis Otani; Mike Case
Subject: Unidentified Person Reports

Cathy: As you requested, here is a written count of the reports of unidentified persons entered into the Department of Justice, Missing and Unidentified Persons System during the following years:

2000 - 159
 2001 - 142
 2002 - 180
 2003 - 193
 2004 - 266

We do not have the ability to report from which county each entry came from.

If you need any additional information, please contact the unit manager, Mike Case, or staff from the MUPS unit directly at 916 227-3290. I will be changing assignments effective the first of March.

Greg Truax, Supervisor
 Missing and Unidentified Persons Unit

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Exhibit C

Cathy Cruz

From: Kaye, Leonard [LKAYE@auditor.co.la.ca.us]
Sent: Monday, June 13, 2005 12:49 PM
To: Cathy Cruz
Cc: Yaghobyan, Hasmik
Subject: FW: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

Cathy,

Your explanation is below. We also attach a pertinent file. Please let me know if we can be of further assistance.

Thanks,

Leonard

-----Original Message-----

From: Yaghobyan, Hasmik
Sent: Friday, June 03, 2005 12:06 PM
To: Kaye, Leonard
Subject: FW: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

Leonard,

Per your request, here is the reason for the difference between the number of unidentified bodies reported by the Coroner and the number of unidentified bodies reported by the DOJ. Per Jhonsi's e-mail(attached), the Coroner has counted the number of persons who were identified just before the 10-day period was expired as unidentified (i.e. identified on the 9th day), since they had performed all the requirements of the 10-day report, therefore, they felt that they were eligible for reimbursement.

Let me know if you have any questions. Thanks.
Hasmik

-----Original Message-----

From: Romo, Patty [mailto:promo@coroner.co.la.ca.us]
Sent: Friday, June 03, 2005 11:15 AM
To: Yaghobyan, Hasmik
Cc: Koneru, Jhansi
Subject: RE: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

Good Morning,

As requested please see the attached file.

Thank You

-----Original Message-----

From: Koneru, Jhansi
Sent: Wednesday, May 25, 2005 8:35 AM
To: Romo, Patty
Subject: FW: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

-----Original Message-----

From: Yaghobyan, Hasmik [mailto:HYAGHOBYAN@auditor.co.la.ca.us]
Sent: Wednesday, May 25, 2005 8:30 AM
To: Koneru, Jhansi

Subject: FW: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

-----Original Message-----

From: Kaye, Leonard

Sent: Tuesday, May 24, 2005 3:17 PM

To: 'Cathy Cruz'

Cc: Yaghobyan, Hasmik

Subject: RE: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

Jhansi,

per our tel. conversdation. Thank you
Hasmik

Cathy,

I have asked Hasmik Yaghobyan to research this matter. We will get back with you shortly.

Thanks,

Leonard

-----Original Message-----

From: Cathy Cruz [mailto:Cathy.Cruz@csm.ca.gov]

Sent: Monday, May 23, 2005 11:34 AM

To: Kaye, Leonard

Subject: 00-TC-18 - Postmortem Examinations: Unidentified Bodies, Human Remains

Hello Leonard,

The proposed statewide cost estimate for the *Postmortem Exams* program is tentatively scheduled for the July agenda. I recently went to the State Controller's Office to review claiming data and found that the County of Los Angeles' claims make up 99 percent of total claims. Prior to reviewing the data, the Department of Justice notified me of the number of reports of unidentified persons entered into the DOJ, Missing Persons and Unidentified Persons System. They are as follows (by calendar year):

2000 - 159

2001 - 142

2002 - 180

2003 - 193

2004 - 266

However, LA County claims the following number of cases by fiscal year:

2000-01: 153

2001-02: 305

2002-03: 295

2003-04: 284

Would you be able to clarify the discrepancy between the numbers?

I would appreciate any information you can provide.

Cathy Cruz
Program Analyst

916-323-8218

Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

CALENDAR YEAR	DEPT. OF JUSTICE	CORONER
2001	142	320
2002	180	285
2003	193	312
JAN. TO JUNE 2004	266	120
	781	1037