

ITEM 9
PROPOSED PARAMETERS AND GUIDELINES
FINAL STAFF ANALYSIS

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

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Sections 12025, 12031, 13012,
13014, 13023 and 13730

Statutes 1980, Chapter 1340 (SB 1447);
Statutes 1982, Resolution Chapter 147
(SCR 64); Statutes 1984, Chapter 1609 (SB
1472); Statutes 1989, Chapter 1172 (SB 202);
Statutes 1992, Chapter 1338 (SB 1184);
Statutes 1993, Chapter 1230 (AB 2250);
Statutes 1995, Chapters 803 and 965 (AB 488
and SB 132); Statutes 1998, Chapter 933 (AB
1999); Statutes 1999, Chapter 571 (AB 491);
Statutes 2000, Chapter 626 (AB 715); Statutes
2001, Chapters 468 and 483 (SB 314 and AB
469); and California Department of Justice,
Criminal Justice Statistics Center, Criminal
Statistics Reporting Requirements and
Requirements Spreadsheet, March 2000

Filed on September 6, 2002 by City of
Newport Beach, Claimant and
Filed on November 22, 2002 by County of
Sacramento, Claimant

Case Nos.: 02-TC-04 & 02-TC-11

*Crime Statistics Reports for the
Department of Justice*

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

Adopted on June 26, 2008

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on June 26, 2008. Juliana Gmur of MAXIMUS represented claimants City of Newport Beach and County of Sacramento, and Glenn Everroad, represented claimant City of Newport Beach. Carla Castañeda and Donna Ferebee represented the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve the test claim at the hearing by a vote of 7-0.

Summary of Findings

The Commission finds 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:

- 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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (a), Stats. 1993, ch. 1230).

The Commission also finds that all other test claim statutes and alleged executive order do not constitute a reimbursable state-mandated program. Neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts.

BACKGROUND

This test claim alleges crime statistics reporting activities that are required of, depending on the type of report, city and county law enforcement agencies, county probation departments, and district attorneys.

The Uniform Crime Reporting (UCR) Program is a city, county and state law enforcement program that provides a nationwide view of crime based on the submission of statistics by law enforcement agencies throughout the country. The crime data are submitted either to a state UCR Program or directly to the national UCR Program, administered by the Federal Bureau of Investigation (FBI). The International Association of Chiefs of Police (IACP) envisioned the need for statistics on crime in the 1920s. The IACP's Committee on Uniform Crime Records is a voluntary national data collection effort begun in 1930. Crime data are, for the most part,

collected monthly by the UCR Program. The FBI provides report forms, tally sheets, and self-addressed envelopes to agencies that complete the forms and return them directly to the FBI.

In 1955, California enacted laws requiring the state's participation in the UCR Program. At the same time, it authorized and directed the California DOJ to collect, maintain and analyze criminal statistics beyond the scope of the UCR Program.

Penal Code section 13010¹ requires DOJ to collect from state and local entities, on forms developed by DOJ, data necessary for the "work of the department." (Department is used in the statutes to mean DOJ.) Penal Code section 13010 also provides that DOJ shall: (1) recommend the form and content of records to be maintained by the state and local entities; (2) instruct them in the installation, maintenance and use of such records; (3) process, tabulate, analyze and interpret the data collected; (4) supply data to the FBI and others engaged in the collection of national criminal statistics; (5) present to the Governor an annual report containing the criminal statistics of the preceding calendar year; and (6) present at such other times as the Attorney General may approve reports on special aspects of criminal statistics (Pen. Code, § 13010, subs. (c) – (g)).

Since 1955 Penal Code section 13020 has imposed a duty on city marshals, chiefs of police, district attorneys, city attorneys, city prosecutors having criminal jurisdiction, probation officers and others, including:

[E]very other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title. (Pen. Code, § 13020.)

Since 1955, cities and counties have had the obligation to provide DOJ with criminal statistics used in the UCR Program, as well as those needed for the annual report to the Governor and other reports on special aspects of criminal statistics.

Test Claim Statutes

Annual DOJ report to the Governor: Penal Code section 13012 requires DOJ's annual report to the Governor to contain specified data. It was amended in 1980 to require inclusion of "the number of citizens' complaints received by law enforcement agencies under Section 832.5..." (Stats. 1980, ch. 1340, eff. Sept. 30, 1980.)

Subdivision (c) of section 13012 was amended in 1995 to add the following underlined provision: "The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents." It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

¹ All references are to the Penal Code unless otherwise indicated.

(e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

Homicide reports: Penal Code section 13014 requires DOJ to collect information on all homicide victims and persons charged with homicides, to adopt and distribute homicide reporting forms and to compile the reported homicide information and annually publish a report about it. Subdivision (b) states: "Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime." (Stats. 1992, ch. 1338.)

Hate crime reports: Penal Code section 13023, as originally enacted in 1989, provided:

Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local 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 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. (Stats. 1989, ch. 1172.)

Section 13023 also requires DOJ to file annual reports on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

Concealed and loaded firearms reports: Penal Code section 12025 defines when a person is guilty of carrying a concealed firearm, defines punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

- (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
- (2) The Attorney General shall submit annually a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
- (3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

- (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and

ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative only until January 1, 2005.

Domestic violence reports: Penal Code section 13730 requires local law enforcement agencies to develop a system for recording all domestic violence-related calls for assistance. Enacted by Statutes 1984, chapter 1609, subdivision (a) requires each law enforcement agency to develop a system for recording all domestic violence-related calls for assistance, including whether weapons are involved. Subdivision (b) requires the Attorney General to report annually to the Governor and Legislature on the total number of domestic violence-related calls received by California law enforcement agencies. Subdivision (c) requires law enforcement agencies to develop a domestic violence incident report form for the domestic violence calls, with specified content. It also requires written reports for domestic-violence related calls for assistance.

The Legislature amended subdivision (a) (Stats. 1993, ch. 1230) to state that “all domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident.”

Reports for crime victims age 60 or older: Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

Resolved by the Senate of the State of California, the Assembly thereof concurring,

That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,

That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system...

Criminal Justice Statistics Center Documents: Also included in the claim is the “Criminal Justice Reporting Requirements” (March 2000) and the “Criminal Statistics Reporting Requirements Spreadsheet” both promulgated by the Department of Justice, Criminal Justice Statistics Center. The introduction to the Reporting Requirements (former) document states:

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice’s Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

The Table of Contents of this document has sections on arrests, crimes and clearances, arson offenses, homicides, hate crimes, law enforcement officers killed or assaulted, domestic violence related calls for assistance, violent crimes committed against senior citizens, death in custody, adult probation, juvenile court and probation statistical system,

concealable weapons statistical system, hate crime prosecution survey, law enforcement and criminal justice personnel survey, and citizens' complaints against peace officers survey.

The spreadsheet has rows for each of the categories in the Table of Contents above, and columns indicating the reporting agency, reporting frequency, statutory authority, reporting form, and whether electronic reporting is available for each crime or category.

Related Commission Decisions

The Commission has issued four decisions on various versions of Penal Code section 13730 regarding domestic violence reports, as follows.

Domestic Violence Information, CSM 4222: In 1987, the Commission approved this test claim on Penal Code section 13730, as added by Statutes 1984, chapter 1609. The parameters and guidelines for *Domestic Violence Information* authorize reimbursement for local law enforcement agencies for the “costs associated with the development of a Domestic Violence Incident Report form used to record and report domestic violence calls,” and “for the writing of mandated reports which shall include domestic violence reports, incidents or crime reports directly related to the domestic violence incident.”

Beginning in fiscal year 1992-93, the Legislature suspended Penal Code section 13730 (as added by Stats. 1984, ch. 1609) pursuant to Government Code section 17581. Suspending a statute means the Legislature assigns a zero-dollar appropriation to the program and makes it optional.

Domestic Violence Training and Incident Reporting, CSM 96-362-01: In February 1998, the Commission considered this test claim on the 1995 amendment to Penal Code section 13730, subdivision (c) (Stats. 1995, ch. 965). This amendment requires law enforcement agencies to include in the domestic violence incident report information relating to the use of alcohol or controlled substances by the alleged abuser, and any prior domestic violence responses to the same address.

The Commission determined that the additional information on the domestic violence incident report was not mandated by the state because the suspension of the statute under Government Code section 17581 made the completion of the incident report optional, so the additional information under the test claim statute came into play only after a local agency elected to complete the incident report.

Based on the language of the suspension statute (Gov. Code, § 17581), the Commission determined, however, that during periods when the state operates without a budget, the original suspension of the mandate would not be in effect. Thus, for the periods when the state operates without a budget until the Budget Act is chaptered and makes the domestic violence incident reporting program optional under Government Code section 17581, the Commission determined the activities required by the 1995 amendment to Penal Code section 13730 are reimbursable.

In 1998, Government Code section 17581 was amended² to close the gap and continue the suspension of programs during periods when the state operates without a budget. The *Domestic*

² Section 17581, subdivision (a), now states the following: “No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal

Violence Information and Incident Reporting program has been suspended in every Budget Act since 1992 except for 2003-2004.³

Crime Victims' Domestic Violence Incident Reports, 99-TC-08: This claim was decided by Commission on May 29, 2003 (corrected decision issued in September 2003). The Commission found it had no jurisdiction over Penal Code section 13730 (Stats. 1984, ch. 1609, Stats. 1995, ch. 965) because it had already adjudicated the statute in CSM 4222, *Domestic Violence Information*, and in CSM 96-362-01, *Domestic Violence Training and Incident Reporting*. The Commission also found that the mandate had been suspended by the Legislature every year since 1992-1993, making the activities discretionary on the part of local government.

Crime Victims' Domestic Violence Incident Reports II, 02-TC-18: This claim, originally submitted as an amendment to (and severed from) test claim 99-TC-08, was adopted September 27, 2007. The Commission found that effective January 1, 2002, Penal Code section 13730, subdivision (c)(3) (Stats. 2001, ch. 483) imposes a reimbursable state-mandated program for local agencies, on all domestic violence-related calls for assistance, to include on the domestic violence incident report form a notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon (Pen. Code, § 13730, subd. (c)(3)).

The Commission noted in the analysis that no test claim had been filed on section 13730 as amended by Statutes 1993, chapter 1230, which added to subdivision (a) "All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident."

Claimants' Position

Claimants City of Newport Beach and County of Sacramento filed separate test claims to seek reimbursement based on article XIII B, section 6 of the California Constitution for criminal statistics reporting duties. The test claims do not contain specific activities beyond quoting the language of the test claim statutes. Both test claims estimate that the costs will substantially exceed \$1000.00 per year. On September 26, 2007, the Executive Director consolidated the two test claims.

year and the for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year . . ."

³ 2007-2008 Budget Act (Stats. 2007, chs. 171 & 172) Item 8885-295-0001, Schedule (3)(aa); 2006-2007 Budget Act (Stats. 2006, chs. 46 & 47) Item 8885-295-0001, Schedule (3) (aa); 2005-2006 Budget Act (Stats. 2005, chs. 38 & 39) Item 8885-295-0001, Schedule (3) (hh); 2004-2005 Budget Act (Stats. 2004, ch. 208) Item 9210-295-0001, Provision 3, Schedule (5); 2002-2003 Budget Act (Stats. 2002, ch. 379), Item 9210-295-0001, Provision 3, Schedule (8); 2001-2002 Budget Act (Stats. 2001, ch. 106), Item 210-295-0001, Provision 3, Schedule (8); 2000-2001 Budget Act (Stats. 2000, ch. 52), Item 210-295-0001, Provision 3, Schedule (8); 1999-2000 Budget Act (Stats. 1999, ch. 50), Item 210-295-0001, Provision 2, Schedule (8).

Claimants submitted joint comments on March 3, 2003, rebutting those of the Department of Finance and DOJ. Regarding DOJ's comment about the city claimant claiming costs for county entities, claimants note that the claim has been joined by County of Sacramento. Claimants made other substantive comments that are discussed below.

Claimant County of Sacramento submitted comments on March 11, 2008 concurring with the draft staff analysis except for the discussion of Penal Code section 13012, which is addressed below.

State Agency Positions

Department of Justice: In comments submitted in January 28, 2003, the DOJ's Criminal Justice Statistics Center commented on each test claim statute individually. DOJ stated that the reports in the test claim statutes that are "required" are in Penal Code sections 13012 (citizen complaints and juvenile offender information), 13023 (hate crimes), 12025 (concealed firearms) and 12031 (loaded firearms in a public place).

As to domestic violence reports (§ 13730), DOJ commented that its report has not changed since 1986, and that the amendments to section 13730 relate to local law enforcement's internal documentation that have nothing to do with DOJ reporting requirements.

Regarding homicide reporting in section 13014, DOJ states that the statute did not add new requirements because the same demographic information has been required since at least 1975, and that no additional information was required as a result of Penal Code section 13014. As to reporting on victims of violent crimes who are 60 years of age or older, DOJ states that the Legislature did not mandate local law enforcement to report this information.

For some activities imposed on county district attorneys or county probation officers, DOJ states that "the City of Newport Beach has not explained how it is responsible for costs associated with this reporting requirement."

DOJ's comments are discussed in more detail below.

Department of Finance: In its October 24, 2002 comments, Finance states that except for one test claim statute, the statutes "may have resulted in a new higher level of service as a result of requiring local law enforcement agencies to keep statistical data on the frequency, types and nature of criminal offenses, in addition to requiring these agencies to submit this data to the Department of Justice."

As to Penal Code section 13730, Finance asserts that the Commission has previously determined it to be a state-mandated program and it was subsequently suspended by the Legislature (Gov. Code, § 17581). Regarding this statute, Finance states:

Chapter 483, Statutes of 2001 [amending Pen. Code, § 13730] would add an additional requirement to the existing mandate. However, since the mandate is suspended, implementation would be at the option of local government. This interpretation is consistent with a decision adopted by the Commission ... on January 29, 1998, [*Domestic Violence Training and Incident Reporting*, CSM 96-362-01] regarding earlier changes to the same code section. Therefore it does not seem appropriate to include references to these chapters as a part of this claim.

Finance submitted comments on March 7, 2008, concurring with the draft staff analysis.

COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution⁴ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁵ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁶ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁷

In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.⁸

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁹ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim

⁴ Article XIII B, section 6, subdivision (a), (as amended in Nov. 2004) provides:

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

⁵ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

⁶ *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

⁷ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

⁸ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

⁹ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

legislation.¹⁰ A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”¹¹

Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹²

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹³ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹⁴

Each statute is discussed separately to determine whether it is a reimbursable state-mandate.

Do the test claim statutes or alleged executive orders impose a reimbursable state-mandated program within the meaning of article XIII B, section 6?

Annual DOJ Report to the Governor - Penal Code section 13012

Penal Code section 13012 requires DOJ’s annual report to contain specified data. Section 13012 was amended by Statutes 1980, chapter 1340 (eff. Sept. 30, 1980) to require inclusion of “the number of citizens’ complaints received by law enforcement agencies under Section 832.5.”

Subdivision (c) of section 13012 was amended in 1995 (ch. 803) to add the following underlined provision: “The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.” It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

(e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

Section 13012 by itself only specifies the content of a DOJ report, not a report by a local agency. It refers to the “annual report of the department provided for in Section 13010...” Section 13010 states: “It shall be the duty of the department [of Justice]: (a) To collect data necessary for the

¹⁰ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

¹¹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

¹² *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

¹³ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹⁴ *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

department from all persons and agencies mentioned in Section 13020 and from any other appropriate source;” Section 13020, in turn, requires the local agency reports. Section 13020 was not pled by claimants, nor was section 13010. Nor are these sections incorporated by reference into section 13012, the test claim statute. For these reasons, the Commission has no jurisdiction to make determinations on sections 13010 and 13020.¹⁵

Claimant County of Sacramento, in March 2008 comments on the draft staff analysis, states that section 13020 was “included as part of the original test claim.” Claimant cites the following sentence in the test claim: “Pursuant to Penal Code §§ 13020 and 13021, local law enforcement were required to comply with the DOJ and begin collecting statistical crime data.” Claimant states:

[S]ection 13020 was part of a pre-existing program. It is the expansion of that program which is the subject of the instant test claim. The statute was cited as an overarching requirement. It was not part of the addition of the test claim statutes addressing the various new reports. The section was specifically pleaded, as set forth above, in the opening paragraph of the test claim to set the stage for the statutory changes that created new requirements under the existing program.

Although it is mentioned as preexisting law, the test claim does not expressly plead section 13020. On page 6 of both test claims, claimants cite the “specific statutory sections that contain the mandated activities” and do not mention section 13020. Nor are any of the statutes and chapters that enacted or amended section 13020 cited in the test claim.¹⁶ Thus, the Commission finds that section 13020 was not pled in the test claim.

Therefore, the Commission finds that section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486) by itself, does not impose a state-mandated activity on a local government, and therefore it is not a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

The next issue is whether there is a state mandate to report the citizen complaint and juvenile justice data based on the “Criminal Statistics Reporting Requirements” and “Requirements Spreadsheet” (March 2000) promulgated by the California Department of Justice, Criminal Justice Statistics Center (CJSC). These CJSC documents were pled by claimants in the test claims.

The Commission only has jurisdiction over statutes and executive orders (Gov. Code, §§ 17551 & 17514). Thus, the issue is whether the CJSC documents are executive orders within the meaning of Government Code section 17516. This section defines an executive order as: “any order, plan, requirement, rule, or regulation issued by any of the following: (a) The Governor.

¹⁵ Sections 13010, 13012 and 13020 were enacted before 1975 and therefore are not subject to article XIII B, section 6, subdivision (a)(3) of the California Constitution.

¹⁶ Section 13020 was enacted by Statutes 1955, chapter 1128, and amended by Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872.

(b) Any officer or official serving at the pleasure of the Governor. (c) Any agency, department, board, or commission of state government.”

The “Criminal Statistics Reporting Requirements” document states, under the first “Introduction:”

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice’s Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

Under the heading “Citizen Complaints against Peace Officers Survey” there is another introduction that states: “Agencies are to report to DOJ statewide summary information on the number of non-criminal and criminal (misdemeanor and felony) complaints reported by citizens to law enforcement agencies, and the number of complaints that were sustained.” Under the heading “Why,” only Penal Code section 13012 is quoted.

The Spreadsheet also imposes no requirements, but contains descriptions of the statutory reporting requirements.

Therefore, even if the Commission were to find that the CJSC documents are executive orders within the meaning of Government Code section 17516, the documents still do not mandate the reporting of the citizen complaint information by local agencies. The language used in the document is not mandatory, as it refers to itself as “general guidelines.” Therefore, the CJSC documents are not executive orders within the meaning of Government Code section 17516. Also, the CJSC document only references section 13012 for citizen complaints, the statute that specifies the content of DOJ’s report. There is no reference to section 13020’s local agency reporting requirement in the CJSC document.

As for reporting juvenile justice data, the CJSC document states as follows, under the heading “Juvenile Court and Probation Statistical System:” “Juvenile justice data is to be reported to DOJ to provide information on the administration of juvenile justice in California. Information is collected on a juvenile’s progress through the juvenile justice system from probation intake to final case disposition.” Under the “Why” portion under juvenile justice, Penal Code section 13020 and Welfare and Institutions Code section 285 are quoted, neither of which are test claim statutes.

There is no other pleading or evidence in the record, such as a letter to law enforcement agencies from DOJ, requiring local agencies to provide statistics for citizen complaints or juvenile justice data.

Thus, the Commission finds that Penal Code section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486) and the “Criminal Statistics Reporting Requirements” and Requirements Spreadsheet (March 2000), do not impose state-mandated activities on local agencies to report citizen complaints against peace officers and juvenile justice data to the DOJ, and therefore reimbursement is not required pursuant to article XIII B, section 6 of the California Constitution.

Homicide Reports - Penal Code Section 13014

Section 13014 was added by Statutes 1992, chapter 1338. Subdivision (b) of this section states: “Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime.”

Subdivision (a) of section 13014 requires the DOJ to collect information on all homicide victims and persons charged with homicides. It also requires DOJ to adopt and distribute homicide reporting forms, and requires the department to compile the reported homicide information and annually publish a report about it.

Based on the plain meaning of the statute, the Commission finds that this section 13014, subdivision (b), imposes a state mandate on local law enforcement agencies that are “responsible for the investigation and prosecution of a homicide case” to report to the DOJ the specified data.

The Commission also finds that section 13014 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public¹⁷ by collecting homicide information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

The next issue is whether this reporting is a new program or higher level of service. DOJ states, in comments submitted in January 2003, that section 13014 did not enact anything new because the demographic information it describes was already included on the Supplementary Homicide Report provided to the local entities by the DOJ. DOJ attached a report form with a revision date of July 11, 1975, to “demonstrate that the same demographic information has been required since at least 1975, and that no additional information was required as a result of the addition of Penal Code section 13014.”

Claimants, in joint rebuttal comments submitted in March 2003, assert that “there is no state-mandate until the Legislature creates one” and argue as follows:

[T]his reporting was optional at the direction of the DOJ, who could have changed its reporting requirements at any time. Nor does it change the fact that such reporting is no longer option [sic] in light of the current statutes. Now, neither the local entities nor the DOJ itself can opt not to report that which is required by law. The simple fact that the DOJ has been conscientious about devising its crime statistic reports and has ultimately foreseen the direction of the Legislature, does not defeat the existence of current state mandate [sic] and the constitutional guarantee for reimbursement of costs for local agencies.

The issue is whether the requirement to report homicides existed before the enactment of section 13014 (Stats. 1992, ch. 1338). The Commission finds there is insufficient evidence that it did.

The legislative history of section 13014 indicates that “Under current law [¶]...[¶] The Department of Justice is not required by statute to maintain data pertaining to victims of

¹⁷ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

homicide and persons charged with homicide.”¹⁸ This statement in the legislative history suggests that reporting the homicide data is a new program or higher level of service.

State mandates are created by either a statute or an executive order (Gov. Code, §§ 17551, subd. (a) & 17514). If DOJ did not require reporting homicide data under the authority of a statute before the test claim statute, then it may have done so under the authority of an executive order, defined as “any order, plan, requirement, rule, or regulation issued by [¶]...[¶] any agency, department, board, or commission of state government.” (Gov. Code, § 17516).

There is no evidence of an executive order requiring homicide reports. The form provided by DOJ in its comments only shows that DOJ collected homicide information, but not that local agencies were required to provide it. In fact, the form DOJ submitted with its comments states: “In view of the importance of the homicide classification in crime reporting, it is *requested* that the following supplementary report be filled in and transmitted ...”¹⁹ [Emphasis added.] Since the form uses the non-mandatory language “it is requested that” the Commission finds that reporting this homicide information prior to the test claim statute was not mandatory for local agencies.

Consequently, the Commission finds that the requirement to provide homicide information as specified in section 13014 is a new program or higher level of service.

The Commission also finds that this data collection imposes costs mandated by the state within the meaning of Government Code section 17514. Government Code section 17556 provides that the Commission shall not find costs mandated by the state if certain conditions apply. The Commission finds that no exceptions in Government Code 17556 apply to Penal Code section 13014.

Therefore, the Commission finds that Penal Code section 13014 is a reimbursable mandate for a local government entity responsible for the investigation and prosecution of a homicide case to provide 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, beginning July 1, 2001 (the beginning of the reimbursement period for this test claim).

Hate Crime Reports - Penal Code Section 13023

As originally enacted (Stats. 1989, ch. 1172) this section stated:

Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local 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 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

¹⁸ Senate Third Reading analysis of Senate Bill No. 1182 (1991-1992 Reg. Sess.) as amended August 28, 1992, p. 1.

¹⁹ Comments from the Department of Justice on Test Claim 02-TC-04, January 28, 2003, Exhibit B.

whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability.

Section 13023 also requires DOJ to file annual reports to the Legislature on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

The plain language of this statute requires the Attorney General to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..."

However, the requirement is contingent on funding, as it reads "subject to the availability of adequate funding, the Attorney General shall direct..." The funding in the statute, however, is allocated to the Attorney General, not local entities. In its comments on the test claim, the Attorney General's Office stated that "[a]lthough the hate crime legislation passed in 1989, because of a lack of funding, the DOJ did not begin collecting data until 1994." This indicates that the funding was allocated to the Attorney General's office to collect the data, not on the local agencies to report it.

Therefore, based on the mandatory language in the statute that gives neither DOJ nor local agencies discretion to refuse to comply, the Commission finds that it is a state mandate for local law enforcement agencies to report to DOJ 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, gender, national origin, or physical or mental disability.

The Commission also finds that section 13023 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public²⁰ by collecting hate crime information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

Since this reporting was not required before the test claim statute, the Commission also finds that it is a new program or higher level of service.

And the Commission finds that section 13023 imposes costs mandated by the state within the meaning of Government Code section 17514, and no exceptions in Government Code section 17556 apply.

Therefore, the Commission finds that Penal Code section 13023 is a reimbursable state-mandated program for 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, beginning July 1, 2001 (the beginning of the reimbursement period for this test claim).

²⁰ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

Concealed and Loaded Firearms Reports – Penal Code Sections 12025 & 12031

Section 12025 defines when a person is guilty of carrying a concealed firearm, defines punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

[¶]...[¶]

(3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

[¶]...[¶]

(3) This subdivision shall remain operative only until January 1, 2005.

Based on the mandatory language in sections 12025, subdivision (h)(1) and 12031, subdivision (m)(1), the Commission finds that these sections impose state mandates for the district attorney to submit the reports as specified.

The Commission also finds that sections 12025, subdivision (h)(1) and 12031, subdivision (m)(1) constitute a program within the meaning of article XIII B, section 6 because they carry out the governmental function of providing a service to the public²¹ by collecting concealed and loaded firearm information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

These reports were not required before enactment of the test claim legislation, so the Commission also finds that they are a new program or higher level of service.

And the Commission also finds that the reporting requirements in sections 12025 and 12031 impose costs on district attorneys that are mandated by the state within the meaning of Government Code section 17514, and that no exceptions in Government Code section 17556 apply.

Therefore, the Commission finds that it is a reimbursable state-mandated program 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

²¹ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

public place), and any other offense charged in the same complaint, indictment, or information. The Commission finds that this is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period) until January 1, 2005, the statutory sunset date. (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3).)

Domestic Violence Reports – Penal Code Section 13730

Claimants pled section 13730 and its various amendments since enactment (Stats. 1984, ch. 1609, Stats. 1993, ch. 1230, Stats. 1995, ch. 965, and Stats. 2001, ch. 483). As indicated above in the background under the descriptions of prior Commission decisions, the Commission has made determinations on all these versions of section 13730 except for Statutes 1993, chapter 1230.

Based on these prior determinations, the Commission finds that it does not have jurisdiction over the other amended versions (i.e., the 1984, 1995 & 2001 amendments) of section 13730. An administrative agency does not have jurisdiction to rehear a decision that has become final.²²

Statutes 1993, chapter 1230 added the following to subdivision (a) of section 13730: “All domestic violence related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident.”

In its comments on the test claim, Finance states:

Chapter 483, Statutes of 2001 [amending Pen. Code, § 13730] would add an additional requirement to the existing mandate. However, since the mandate is suspended, implementation would be at the option of local government. This interpretation is consistent with a decision adopted by the Commission ... on January 29, 1998, [*Domestic violence Training and Incident Reporting*, CSM 96-362-01] regarding earlier changes to the same code section. Therefore it does not seem appropriate to include references to these chapters as apart of this claim.

The Commission disagrees. In order to be suspended by the Legislature, a statute must have “been determined by the Legislature, the Commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies...” (Gov. Code, § 17581.)

This 1993 amendment to section 13730 has never been determined by the Legislature, the Commission, or any court to mandate a new program or higher level of service requiring local agency reimbursement, as required by Government Code section 17581. Therefore, the 1993 amendment is not eligible for suspension by the Legislature.

Thus, based on the mandatory language in the statute, the Commission finds that section 13730, as amended by Statutes 1993, chapter 1230, imposes a state mandate on local law enforcement agencies to support domestic violence related calls for assistance with a written incident report. The Commission also finds that this section, as amended by Statutes 1993, chapter 1230, constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public²³ by requiring written reports for

²² *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407. *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143.

²³ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

domestic violence-related calls for assistance, and because making the reports is an activity that is unique to local government.

The next issue is whether the mandate is a new program or higher level of service. Preexisting law, before the 1993 amendment, had been suspended (pursuant to Gov. Code, § 17581) and made voluntary every year beginning fiscal year 1992-1993 as indicated above, making the amendment a newly required activity.

Moreover, preexisting law states:

Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident (Pen. Code, § 13730, subd. (c)).

Preexisting law only requires incident reports for “incidents of domestic violence” whereas the 1993 amendment requires written incident reports for “calls for assistance.” Therefore, the Commission finds that the 1993 amendment to section 13730 is a new program or higher level of service.

The Commission also finds that there are costs mandated by the state, as defined by Government Code section 17514, for this mandate, and that no exceptions to reimbursement in Government Code section 17556 apply.

Therefore, the Commission finds that it is a reimbursable state-mandated program for local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report, beginning July 1, 2001 (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

Crime reports for Persons 60 or Older - Senate Resolution No. 64 (Stats. 1982, ch. 147)

Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

Resolved by the Senate of the State of California, the Assembly thereof concurring,
That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,
That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system...

The Commission finds that this resolution is not a state mandate within the meaning of article XIII B, section 6 of the California Constitution. First, it “requests” but does not mandate that the victim information be provided to DOJ, a fact pointed out by DOJ in its comments submitted on the test claim (and the form it promulgates to local agencies also “requests” the information). Second, the California Supreme Court has held that legislative resolutions do not have the force of law.²⁴

²⁴ *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, 709.

Therefore, the Commission finds that Senate Resolution No. 64 (Stats. 1982, ch. 147) is not a state mandate within the meaning of article XIII B, section 6 of the California Constitution.

CONCLUSION

For the reasons discussed above, the Commission finds that, beginning July 1, 2001, the test claim statutes cited below 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:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide 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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (a), Stats. 1993, ch. 1230).

The Commission also finds that all other test claim statutes and alleged executive order do not constitute a reimbursable state-mandated program. Neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730

Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes 1967, Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377; Statutes 1979, Chapter 255 and 860; Statutes 1980, Chapter 1340 (SB 1447); Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1995, Chapters 803 and 965 (AB 488 and SB 132); Statutes 1996, Chapter 872 (AB 3472); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 468 and 483 (SB 314 and AB 469); Statutes 2004, Chapters 405 and 700 (SB 1796 and SB 1234) and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000

Filed on March 27, 2008
By the City of Newport Beach and County of Sacramento, Co-claimants

No. 07-TC-10 (Amendment to 02-TC-04 and 02-TC-11)

Crime Statistics Reports for the Department of Justice

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 July 31, 2009; Corrected on April 12, 2010)

CORRECTED STATEMENT OF DECISION

Pursuant to California Code of Regulations, title 2, section 1188.2, subdivision (b), the attached Corrected Statement of Decision of the Commission on State Mandates is hereby issued to correct the operative and effective date of Statutes 2004, chapter 700 on pages 2, 14, and 15 from January 1, 2004, to January 1, 2005. The corrections are made in strikeout and underline.

PAULA HIGASHI, Executive Director

Dated: April 12, 2010

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730

Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes 1967, Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377; Statutes 1979, Chapter 255 and 860; Statutes 1980, Chapter 1340 (SB 1447); Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1995, Chapters 803 and 965 (AB 488 and SB 132); Statutes 1996, Chapter 872 (AB 3472); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 468 and 483 (SB 314 and AB 469); Statutes 2004, Chapters 405 and 700 (SB 1796 and SB 1234) and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000 Amendment filed on March 27, 2008 by City of Newport Beach and County of Sacramento, Co-claimants

Case Nos.: 07-TC-10

Crime Statistics Reports for the Department of Justice

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

(Adopted on July 31, 2009; Corrected on April 12, 2010)

CORRECTED STATEMENT OF DECISION

The Commission on State Mandates (“Commission”) heard and decided this test claim during a regularly scheduled hearing on July 31, 2009. Juliana Gmur appeared on behalf of claimants City of Newport Beach and County of Sacramento. Hortensia Mato appeared on behalf of claimant City of Newport Beach. Carla Castaneda and Susan Geanacou appeared on behalf of the Department of Finance.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve the test claim at the hearing by a vote of 6-0.

Summary of Findings

This test claim alleges crime statistics reporting activities of local law enforcement agencies. 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*, by the same co-claimants, which the Commission determined impose a reimbursable program on June 26, 2008.

For the reasons discussed below, the Commission finds 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 beginning ~~January 1, 2004~~ January 1, 2005, 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.

The Commission further finds that Penal Code sections 13020 and 13021 (Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872) are not reimbursable state mandates within the meaning of article XIII B, section 6 of the California constitution because they existed before 1975, and impose no new activities on local agencies.

As to Statutes 1971, chapter 1203, the Commission finds that, because it amended only Penal Code section 13010, which is not part of this test claim, the Commission does not have jurisdiction over it.

The Commission finds that Statutes 2004, chapters 405 (amending Pen. Code, § 13014, homicide reports) is not a state mandate because it does not require a local agency activity.

The Commission also finds that it does not have jurisdiction over the remaining statutes, chapters and executive orders in this claim because the Commission already made a determination on them in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*.

BACKGROUND

This test 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*, by the same co-claimants. Test claims 02-TC-04 and 02-TC-11 were decided by the Commission on June 26, 2008, determining that the following activities are reimbursable mandates:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide the 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. 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (a), Stats. 1993, ch. 1230).

The Commission also found that neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts. Penal Code section 13012 concerns only the DOJ's annual report to the Governor and did not require a local government activity.

Although it includes other statutes and executive orders, this amendment was filed because Penal Code sections 13020 and 13021 were not included in the earlier test claims. Co-claimants asserted that section 13020 (the duty on local law enforcement to report crime) was expanded to create the program in test claims 02-TC-04 and 02-TC-11 (see Statement of Decision, p. 11).

Uniform Crime Reporting: The Uniform Crime Reporting (UCR) Program is a city, county and state law enforcement program that provides a nationwide view of crime based on the submission of statistics by law enforcement agencies throughout the country. The crime data are submitted either to a state UCR Program or directly to the national UCR Program, administered by the Federal Bureau of Investigation (FBI). The International Association of Chiefs of Police (IACP) envisioned the need for statistics on crime in the 1920s. The IACP's Committee on Uniform Crime Records is a voluntary national data collection effort begun in 1930. Crime data are, for the most part, collected monthly by the UCR Program. The FBI provides report forms, tally sheets, and self-addressed envelopes to agencies that complete the forms and return them directly to the FBI.

In 1955, California enacted laws requiring the state's participation in the UCR Program. At the same time, it authorized and directed the California DOJ to collect, maintain and analyze criminal statistics beyond the scope of the UCR Program.

Penal Code section 13010 requires DOJ to collect from state and local entities, on forms developed by DOJ, data necessary for the “work of the department.” (Department is used in the statutes to mean DOJ.) Penal Code section 13010 also provides that DOJ shall: (1) recommend the form and content of records to be maintained by the state and local entities; (2) instruct them in the installation, maintenance and use of such records; (3) process, tabulate, analyze and interpret the data collected; (4) supply data to the FBI and others engaged in the collection of national criminal statistics; (5) present to the Governor an annual report containing the criminal statistics of the preceding calendar year; and (6) present at such other times as the Attorney General may approve reports on special aspects of criminal statistics (Pen. Code, § 13010, subs. (c) – (g)).

Since 1955, Penal Code section 13020 has imposed a duty on city marshals, chiefs of police, district attorneys, city attorneys, city prosecutors having criminal jurisdiction, probation officers and others, including “every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General” to collect and report statistical data.

Since 1955, cities and counties have had the obligation to provide DOJ with criminal statistics used in the UCR Program, as well as those needed for the annual report to the Governor and other reports on special aspects of criminal statistics.

Test Claim Statutes

Crime reporting: As enacted in 1955, Penal Code section 13020 imposes the following duty on local law enforcement “when requested by the Attorney General:”

- (a) To install and maintain records needed for the correct reporting of statistical data required by the bureau [FBI];
- (b) To report statistical data to the bureau at such times and in such manner as the Attorney General prescribes;
- (c) To give to the Attorney General, or his accredited agent, access to the statistical data...

In 1972, subdivisions (a) and (b) were amended to make the Attorney General rather than the “bureau” the entity to whom local law enforcement reports.¹

Reporting child pornography crimes: Section 13021 was added in 1967 (Stats. 1967, ch. 1157) as follows:

Local law enforcement agencies shall report to the bureau such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

Chapter 7.5 of Title 9 of Part 1 of the Penal Code is called “Obscene Matter” although the content of the statutes focus on child pornography.

Statutes 1972, chapter 1377, amended this statute to require the report to the Attorney General rather than the “bureau.” This statute has not been amended since 1972.

¹ Statutes 1972, chapter 1377, amended subdivisions (a) and (b) as follows: “(a) To install and maintain records needed for the correct reporting of statistical data required by him [the Attorney General]. (b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes.” No change was made to subdivision (c).

Annual DOJ report to the Governor: Penal Code section 13012 requires DOJ's annual report to the Governor to contain specified data. It was amended in 1980 to require inclusion of "the number of citizens' complaints received by law enforcement agencies under Section 832.5..." (Stats. 1980, ch. 1340, eff. Sept. 30, 1980.)

Subdivision (c) of section 13012 was amended in 1995 to add the following underlined provision: "The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents." It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

(e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486), by itself, does not impose a state-mandated activity on a local government because it only specifies the contents of a DOJ report, and imposes no requirements on a local agency.

Homicide reports: Penal Code section 13014 requires DOJ to collect information on all homicide victims and persons charged with homicides, to adopt and distribute homicide reporting forms and to compile the reported homicide information and annually publish a report about it. Subdivision (b) states: "Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime." (Stats. 1992, ch. 1338.)

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Penal Code section 13014 is a reimbursable mandate for a local government entity responsible for the investigation and prosecution of a homicide case to provide 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.

The Legislature amended subdivision (a) of section 13014 in 2004 (Stats. 2004, ch. 405) to authorize DOJ to distribute reporting forms in writing or by electronic means.

Hate crime reports: Penal Code section 13023, as originally enacted in 1989, provided:

Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local 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 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. (Stats. 1989, ch. 1172.)

Section 13023 also requires DOJ to file annual reports on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Penal Code section 13023 is a reimbursable state-mandated program for 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.

The Legislature amended section 13023 in 2004 (Stats. 2004, ch. 700). This 2004 amendment, which was not pled or determined in test claims 02-TC-04 or 02-TC-11, slightly changed the definition of a hate crime and incorporated the definition by reference into section 13023, which affected the reporting requirement.

Concealed and loaded firearms reports: Penal Code section 12025 defines when a person is guilty of carrying a concealed firearm, defines the punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

- (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
- (2) The Attorney General shall submit annually a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
- (3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

- (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
- (2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
- (3) This subdivision shall remain operative only until January 1, 2005.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that it is a reimbursable mandate 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. This is a reimbursable mandate from July 1, 2001 until January 1, 2005, the

statutory sunset date. (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3).)

Domestic violence reports: Penal Code section 13730 requires local law enforcement agencies to develop a system for recording all domestic violence-related calls for assistance. Enacted by Statutes 1984, chapter 1609, subdivision (a) requires each law enforcement agency to develop a system for recording all domestic violence-related calls for assistance, including whether weapons are involved. Subdivision (b) requires the Attorney General to report annually to the Governor and Legislature on the total number of domestic violence-related calls received by California law enforcement agencies. Subdivision (c) requires law enforcement agencies to develop a domestic violence incident report form for the domestic violence calls, with specified content. It also requires written reports for domestic-violence related calls for assistance.

The Legislature amended subdivision (a) (Stats. 1993, ch. 1230) to state that “all domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident.”

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that it is a reimbursable state-mandated program for local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report, beginning July 1, 2001 (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

Reports for crime victims age 60 or older: Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

Resolved by the Senate of the State of California, the Assembly thereof concurring,

That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,

That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system...

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Senate Resolution No. 64 (Stats. 1982, ch. 147) is not a state mandate within the meaning of article XIII B, section 6, of the California Constitution because it “requests” but does not mandate that the victim information be provided to DOJ, and because legislative resolutions do not have the force of law.

Criminal Justice Statistics Center documents: Also included in the claim is the “Criminal Justice Reporting Requirements” (March 2000) and the “Criminal Statistics Reporting Requirements Spreadsheet” both promulgated by the Department of Justice, Criminal Justice Statistics Center. The introduction to the Reporting Requirements (former) document states:

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice’s Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is

collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

The Table of Contents of this document has sections on arrests, crimes and clearances, arson offenses, homicides, hate crimes, law enforcement officers killed or assaulted, domestic violence related calls for assistance, violent crimes committed against senior citizens, death in custody, adult probation, juvenile court and probation statistical system, concealable weapons statistical system, hate crime prosecution survey, law enforcement and criminal justice personnel survey, and citizens' complaints against peace officers survey.

The spreadsheet has rows for each of the categories in the Table of Contents above, and columns indicating the reporting agency, reporting frequency, statutory authority, reporting form, and whether electronic reporting is available for each crime or category.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that these CJSC documents are not executive orders within the meaning of Government Code section 17516, and that they do not impose state-mandated activities on local agencies to report citizen complaints against peace officers and juvenile justice data to the DOJ.

Co-Claimants' Position

Co-claimants City of Newport Beach and County of Sacramento filed this test claim to seek reimbursement based on article XIII B, section 6 of the California Constitution for criminal statistics reporting duties. The test claims do not contain specific activities beyond quoting the language of the test claim statutes. The co-claimants estimate that the costs of complying with the test claim statutes will substantially exceed \$1000.00 per year.

On May 29, 2009, co-claimants submitted comments supporting the draft staff analysis.

State Agency Positions

The Department of Finance, in comments submitted August 15, 2008, asserts that the test claim should not be reimbursable. According to Finance:

Sections 13020 and 13021 of the Penal Code were enacted in 1955 and 1967 respectively. Further, the amendments to Sections 13020 and 13021 (Chapters 233 and 860, Statutes of 1979 and Chapter 872, Statutes of 1996) made only technical and clarifying changes which do not mandate a new program or higher level of service within the meaning of Section 6 of Article XIII B

Finance also states that the additional statutes pled (beyond those in the original test claims 02-TC-04 and 02-TC-11) "make only technical and clarifying changes to the items already approved by the Commission" and concludes that the Commission should deny the test claim amendment.

Finance submitted a letter concurring with the draft staff analysis on June 3, 2009.

The Department of Justice, in comments submitted September 5, 2008, declines to comment on whether the specified costs incurred represent state mandated reimbursable costs. DOJ did,

however, point out the higher costs claimed by City of Newport Beach than by the County of Sacramento, even though the county has a higher population and more crimes.

COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution² recognizes the state constitutional restrictions on the powers of local government to tax and spend.³ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁴ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁵

In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.⁶

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁷ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim

² Article XIII B, section 6, subdivision (a), (as amended in Nov. 2004) provides:

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

³ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

⁴ *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

⁵ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

⁷ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

legislation.⁸ A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”⁹

Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹⁰

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹¹ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹²

Because of the overlap in statutes, chapters and executive orders in this test claim and test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*, the first issue is the Commission’s jurisdiction.

I. Over which statutes or executive orders does the Commission have jurisdiction?

In this test claim, co-claimants pled the following statutes and chapters:

Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730; Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1971, chapter 1203, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1980, chapter 1340, Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, chapter 1609, Statutes 1989, chapter 1172, Statutes 1992, chapter 1338, Statutes 1993, chapter 1230, Statutes 1995, chapters 803 and 965, Statutes 1996, chapter 872, Statutes 1998, chapter 933, Statutes 1999, chapter 571, Statutes 2000, chapter 626, Statutes 2001, chapters 468 and 483, Statutes 2004, chapters 405, 700, Statutes 1982, Resolution Chapter 147 (SCR 64), and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000.

Statutes 1971, chapter 1203 amended only section 13010, which recites the duties of the Bureau of Criminal Statistics at DOJ. Penal Code section 13010, however, was not pled in this claim.

⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

⁹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

¹⁰ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

¹¹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹² *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

Therefore, the Commission finds that it does not have jurisdiction over Statutes 1971, chapter 1203.

As to the remaining statutes, an administrative agency does not have jurisdiction to rehear a decision that has become final.¹³ On June 26, 2008, the Commission made a determination on the following statutes and chapters in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*, which became final upon mailing to the parties:¹⁴

Penal Code Sections 12025, 12031, 13012, 13014, 13023 and 13730; Statutes 1980, chapter 1340, Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, chapter 1609, Statutes 1989, chapter 1172, Statutes 1992, chapter 1338, Statutes 1993, chapter 1230, Statutes 1995, chapters 803 and 965, Statutes 1998, chapter 933, Statutes 1999, chapter 571, Statutes 2000, chapter 626, Statutes 2001, chapters 468 and 483, and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000.

There is substantial overlap between what was claimed and what the Commission decided at the June 26, 2008 hearing. Because the Commission's prior decision on test claims 02-TC-04 and 02-TC-11 has become final, the Commission has jurisdiction over only those statutes on which no determination was made in the Statement of Decision for those test claims, as follows:

Penal Code sections 13020 and 13021; Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872, Statutes 2004, chapter 405 (amending § 13014), Statutes 2004, chapter 700 (amending § 13023).

These statutes are discussed below.

II. Is reimbursement required for Penal Code sections 13020 and 13021 if the required activities were enacted before 1975?

Article XIII B, section 6 of the California Constitution does not require reimbursement for statutes or executive orders that were enacted before 1975. Therefore, if the law imposed a requirement on local government before 1975, the Legislature may, but need not, reimburse local agencies for those activities.

Penal Code section 13020 imposes the following duty on local law enforcement "when requested by the Attorney General:"

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her;
- (b) To report statistical data to the department [of Justice] at such times and in such manner as the Attorney General prescribes;

¹³ *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407. *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143.

¹⁴ California Code of Regulations, title 2, section 1188.2. The only exception would be for a reconsideration within 30 days of the decision (see Gov. Code, § 17559 & Cal. Code Regs., tit. 2, § 1188.4), but no reconsideration request was filed.

(c) To give to the Attorney General, or his accredited agent, access to the statistical data for the purpose of carrying out this title.

The Commission finds that this same activity was required before 1975. Statutes 1973, chapter 1212 enacted this same requirement “when requested by the Attorney General”:

(a) To install and maintain records needed for the correct reporting of statistical data required by the him; (b) To report statistical data to the Department of Justice at such times and in such manner as the Attorney General prescribes; (c) To give to the Attorney General, or his accredited agent, access to the statistical data for the purpose of carrying out the purposes of this title.

Because local law enforcement was subject to the same reporting requirement before 1975, and based on the absence of any right to reimbursement in article XIII B, section 6, for statutes enacted before 1975, the Commission finds that there is no state reimbursement required for this reporting in Penal Code section 13020 (Stats. 1955, ch. 1128, Stats. 1965, ch. 238, Statutes 1965, chapter 1916, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872).

Section 13021 of the Penal Code also requires local law enforcement reporting:

Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code [child pornography].

Section 13021 has not been amended since 1972 (Stats. 1972, ch. 1377). Therefore, for the same reason as section 13020 above, the Commission finds that state reimbursement is not required for the activities in Penal Code section 13021 (Stats. 1967, ch. 1157, Stats. 1972, ch. 1377).

Sections 13023 (Stats. 2004, ch. 700, hate crime reports) and 13014 (Stats. 2004, ch. 405, homicide reports) are discussed below.

III. Do Penal Code sections 13014 (Stats. 2004, ch. 405) and 13023 (Stats. 2004, ch. 700) mandate a new program or higher level of service?

As stated above, the Commission determined that section 13014, as added in Statutes 1992, chapter 1338, is a reimbursable mandate. This section was amended in 2004 as follows:

(a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases: (1) Collection information, as specified, in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide. (2) Adopt and distribute as a written form or by electronic means to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases forms that will include information to be provided to the department pursuant to subdivision (b).

No other changes were made by Statues 2004, chapter 405. The local government reporting requirement is in subdivision (b). This amendment is not a mandated activity on a local agency. It authorizes the DOJ to distribute forms in writing or electronically, but does not require an activity of a local agency. Therefore, the Commission finds that section 13014, as amended by Statutes 2004, chapter 700, is not a state-mandated new program or higher level of service.

Although the Commission determined that section 13023, as amended by Statutes 2000, chapter 626, is a reimbursable mandate, the section was amended in 2004 as follows:

(a) Subject to the availability of adequate funding, the Attorney General shall direct local 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 ~~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~~ hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.

(b) ~~On or before July 1, 1992, and every July 1, thereafter, of each year,~~ the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

(c) For purposes of this section, "hate crime" has the same meaning as in Section 422.55.

Section 422.55 of the Penal Code, now incorporated into section 13023, was also added by Statutes 2004, chapter 700, as follows:

For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

(a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(1) Disability.

(2) Gender.

(3) Nationality.

(4) Race or ethnicity.

(5) Religion.

(6) Sexual orientation.

(7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

This amendment, incorporating the new definition of hate crime in section 422.55, expands the definition somewhat. For example, instead of the crime being motivated by the victim's characteristics, the new definition allows for actual or "perceived characteristics" of the victim. The amendment also adds a victim characteristic: "Association with a person or group with one or more of these actual or perceived characteristics."

As determined in the Statement of Decision for *Crime Statistics Reports for the Department of Justice* (02-TC-04 and 02-TC-11) the plain language of this statute requires the Attorney General to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..." Therefore, the Commission finds that section 13023 (Stats. 2004, ch. 700) imposes a state-mandated new program or higher level

of service on local law enforcement agencies beginning ~~January 1, 2004~~ January 1, 2005, 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.

The Commission also finds that section 13023 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public¹⁵ by collecting hate crime information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

Subdivision (a) of section 13023, as amended by Statutes 2004, chapter 700, also states that the reported “information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.”¹⁶ There is no evidence or pleading in the record, however, indicating that DOJ has required this information from local law enforcement, such as a letter to law enforcement agencies from DOJ requiring this information to be reported. Since the statute merely authorizes DOJ to request the information but does not require an activity of a local agency, the Commission finds that this amendment to subdivision (a) is not a state-mandated new program or higher level of service.

IV. Does Penal Code section 13023 (Stats. 2004, ch. 700) impose costs mandated by the state within the meaning of Government Code sections 17514 and 17556?

The final issue is whether Penal Code section 13023 (Stats. 2004, ch. 700) imposes costs mandated by the state,¹⁷ and whether any statutory exceptions listed in Government Code section 17556 apply to the test claim. Government Code section 17514 defines “cost mandated by the state” as follows:

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

¹⁵ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

¹⁶ Penal Code section 422.92 states: (a) Every state and local law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public. (b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In carrying out these responsibilities, the department shall consult the Fair Employment and Housing Commission, the Department of Justice, and the Victim Compensation and Government Claims Board.

¹⁷ *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

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.

Government Code section 17564 requires reimbursement claims to exceed \$1000 to be eligible for reimbursement.

The co-claimants submitted declarations in support of their test claim. The City of Newport Beach (p. 11) estimated the cost of filing to comply with Penal Code section 13023 at \$10,570 per month. The County of Sacramento (p. 10) estimated the cost of filing to comply with this statute at \$244 per year. Therefore, co-claimants have met the \$1000 threshold in Government Code section 17564.

The plain language of Penal Code section 13023 requires the Attorney General to “direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ...”

However, the requirement is contingent on funding, as it reads “subject to the availability of adequate funding, the Attorney General shall direct...” The funding in the statute is allocated to the Attorney General, not local entities. In its comments on test claims 02-TC-04 and 02-TC-11, the Attorney General’s Office stated that “[a]lthough the hate crime legislation passed in 1989, because of a lack of funding, the DOJ did not begin collecting data until 1994.” (Statement of Decision, 02-TC-04 & 02-TC-11, *Crime Statistics Reports for the Department of Justice*, p. 15.) This indicates that the funding was allocated to the Attorney General’s office to collect the data, not on the local agencies to report it.

And the Commission finds no exceptions to reimbursement in Government Code section 17556 apply to this test claim.

Therefore, the Commission finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes costs mandated by the state on local law enforcement agencies within the meaning of Government Code section 17514.

CONCLUSION

Based on the foregoing analysis, the Commission finds 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 for the following activities, on local law enforcement agencies beginning ~~January 1, 2004~~ January 1, 2005, 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.

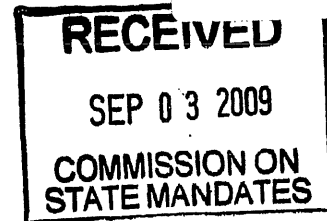
The Commission further finds that Penal Code sections 13020 and 13021 (Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872) are not reimbursable state mandates within the meaning of article XIII B, section 6 of the California constitution because they existed before 1975, and impose no new activities on local agencies.

As to Statutes 1971, chapter 1203, the Commission finds that, because it amended only Penal Code section 13010, which is not part of this test claim, the Commission does not have jurisdiction over it.

The Commission finds that Statutes 2004, chapters 405 (amending Pen. Code, § 13014, homicide reports) is not a state mandate because it does not require a local agency activity.

The Commission also finds that it does not have jurisdiction over the remaining statutes, chapters and executive orders in this claim because the Commission already made a determination on them in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*.





**PROPOSED CONSOLIDATED
PARAMETERS AND GUIDELINES**

Penal Code Sections 12025, subd. (h)(1) & (h)(3), 12031, subd. (m)(1) & (m)(3),
13014, 13023 and 13730, subd. (a)
Statutes 1984, Chapter 1609 (SB 1472); 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);
Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 483 (AB 469)

Crime Statistics Reports for the Department of Justice

02-TC-04 & 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, Co-claimants

I. SUMMARY OF THE MANDATE

On June 26, 2008, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation on the original test claim imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable 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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (a), Stats. 1993, ch. 1230).

On July 31, 2009, the Commission adopted a Statement of Decision finding that the test claim legislation on the amended test claim imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- For local law enforcement agencies beginning January 1, 2004, 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.

II. ELIGIBLE CLAIMANTS

Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The City of Newport Beach filed the original test claim on September 6, 2002. Therefore, costs incurred pursuant to Crime Statistics Reports for the Department of Justice Test Claim are reimbursable on or after July 1, 2001. The City of Newport Beach and the County of Sacramento jointly amended

the test claim. Costs incurred pursuant to the amended test claim are reimbursable on or after January 1, 2004.

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

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

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

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

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

For each eligible claimant, the following activities are reimbursable:

A. Homicide Reports: (Pen. Code, §13014)

One Time Activity:

- Revise existing policies and procedures regarding the filing of homicide reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- Record in law enforcement reports 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.
- Gather and consolidate demographic information from law enforcement reports.
- Draft or complete report regarding demographic information for the California Department of Justice (DOJ).
- Review and edit report.
- Submit report to DOJ via fax, mail or otherwise as acceptable by the DOJ.

- B. Hate Crime Reports: (Pen. Code, §13023)
- One Time Activity:
- Revise existing policies and procedures regarding the filing of hate crime reports, including but limited to, the recording, collection, drafting, review, and submission of reports.
- Ongoing Activities:
- Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.
 - Gather and consolidate information from law enforcement reports.
 - Draft or complete report regarding hate crimes for the Attorney General.
 - Review and edit report
 - Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.
- C. Firearm Reports: (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)) *Reimbursable from July 1, 2001 to January 1, 2005.*
- One Time Activity:
- Revise existing policies and procedures regarding the filing of firearm reports, including but limited to, the recording, collection, drafting, review, and submission of reports.
- Ongoing Activities:
- Record in law enforcement and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.
 - Gather and consolidate profiles from law enforcement reports and district attorney files.
 - Draft or complete report regarding firearms for the Attorney General.
 - Review or edit report.
 - Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.
- D. Domestic Violence Related Calls for Assistance: (Pen. Code, § 13730, subd. (a))
- One Time Activity:
- Revise existing policies and procedures regarding the preparation of domestic violence related calls for assistance incident reports, including but limited to, the recording, collection, drafting, review, and submission of reports.
- Ongoing Activities:
- Gather information on all domestic-violence related calls for assistance for incident report.
 - Draft written incident report.
 - Review or edit report.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3., Contracted Services.

B. Indirect Cost Rates

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

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

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

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

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

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

distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

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

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

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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



EXHIBIT D

JOHN CHIANG
California State Controller
Division of Accounting and Reporting

October 2, 2009

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



RE: **Proposed Consolidated Parameters and Guidelines**
Crime Statistics Reports for the Department of Justice
(Amendment to 02-TC-04 and 02-TC-11), 07-TC-10
Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023, 13730
Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes 1967,
Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377; Statutes 1979,
Chapter 255 and 860; Statutes 1996, Chapter 872 (AB 3472); Statutes 2004, Chapters
405 and 700 (SB 1796 and SB1234)

Dear Ms. Hagashi:

We have reviewed the proposed consolidated parameters and guidelines for the above-named program. Comments and recommendations follow; proposed additions are underlined and deletions are indicated with strikethrough:

I. SUMMARY OF THE MANDATE

"On July 31, 2009, the Commission adopted a Statement of Decision ...

- o 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, (7) association with a person or group with one or more of these actual or perceived characteristics.

(For purposes of reporting, refer to Penal Code § 422.56 for the definitions of the perceived characteristics of the victim.)

MAILING ADDRESS: P.O. Box 942850, Sacramento, CA 94250
STREET ADDRESS: 3301 C Street, Suite 700, Sacramento, CA 95816

- ~~○ 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 association with a person or group with one or more of the actual perceived characteristics: of (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation."~~

COMMENT: Item (7), as provided in Penal Code 422.55, is added to the first paragraph. The definitions of items (1) to (7) are referred to in Penal Code 422.56 for proper guidance in preparation of reports.

III. PERIOD OF REIMBURSEMENT

~~"Actual costs for one fiscal year shall be included in each claim. Estimated costs of the subsequent year may be included on the same claim, if applicable..."~~

COMMENT: Chapter 6, Statutes of 2008 (effective February 16, 2008), eliminates the option of filing an estimated reimbursement claim.

IV. REIMBURSABLE ACTIVITIES -

A. "Homicide Reports: (Penal Code, § 13014)

One Time Activity:

- ~~Revise existing policies and procedures regarding the filing of homicide reports, including but limited to, the recording, collection, drafting, review and submission of reports."~~

Ongoing Activities:

- ~~○ Record in law enforcement reports 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.~~
- "Gather and consolidate demographic information from law enforcement reports about the victim(s) and person(s) charged with the crime."

B. "Hate Crime Reports: (Penal Code, § 13023)

One Time Activity:

- ~~Revise existing policies and procedures regarding the filing of hate crime reports, including but limited to, the recording, collection, drafting, review and submission of reports.~~

Ongoing Activities:

- ~~Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.~~
- Gather and consolidate demographic information from law enforcement reports any information relative to hate crimes as described and defined in Penal Code §§ 422.55 and 422.56, respectively.

- Draft or complete report regarding hate crimes in a manner prescribed by the Attorney General.
- Review and edit report.
- Submit report to ~~Attorney General~~ the Department of Justice (DOJ) via fax, mail, or otherwise as acceptable by the DOJ.”

C. “Firearm Reports: (Pen-al Code, §§ 12025, subd-ivisions (h)(1) & (h)(3); ~~& and~~ 12031, subd-ivisions (m)(1) & (m)(3)) – *Reimbursable from July 1, 2001 to January 1, 2005.*

One Time Activity:

- Revise existing policies and procedures regarding the filing of firearm reports, ~~including but limited to, the recording,~~ collection, drafting, review and submission of reports.

Ongoing Activities:

- ~~Record in law enforcement and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, or indictment, or information.~~
- Gather and consolidate profiles from law enforcement reports and district attorneys’ files on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, or indictment, or information.
- Draft or complete report regarding firearms for the Attorney General.
- Review and edit report.
- Submit report to Attorney General via fax, mail, or otherwise as acceptable by the Attorney General.”

D. “Domestic Violence Related Calls for Assistance: (Pen-al Code, § 13730, subd-ivisions)

One Time Activity:

- Revise existing policies and procedures regarding the ~~preparation~~ filing of domestic violence related calls for assistance incident reports, ~~including but limited to, the recording,~~ collection, drafting, review and submission of reports.

Ongoing Activities:

- Gather and consolidate the law enforcement agencies incident reports on all domestic-violence related calls for assistance.
- Draft ~~written incident~~ or complete report for the Attorney General.
- Review or edit report.
- Submit report to Attorney General via fax, mail, or otherwise as acceptable by the Attorney General.”

Ms. Paula Higashi

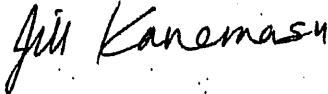
-4-

October 2, 2009

COMMENT: We propose to delete the activity "recording" because it is outside the scope of the state mandated reimbursable costs. The mandate activity is limited to gathering data from the existing reports.

Please contact Gwen Carlos at (916) 324-2341, or Ginny Brummels at (916) 324-0256, if you have any questions.

Sincerely,



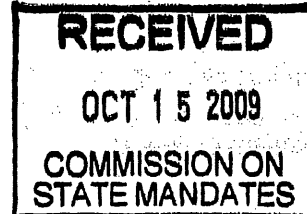
JILL KANEMASU, Chief
Bureau of Payments

JK/GB/gc



October 12, 2009

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



Dear Ms. Higashi:

The Department of Finance (Finance) has reviewed the proposed consolidated parameters and guidelines submitted by the City of Newport Beach and the County of Sacramento for test claim nos. CSM-02-TC-04 and 02-TC-11, and CSM-07-TC-10 "Crime Statistics Reports for the Department of Justice."

Finance recommends deletion of the reference to estimated costs in "Section III. Period of Reimbursement" as estimated claims are no longer accepted by the State Controller's Office.

Finance also recommends that "Section IV. Reimbursable Activities" of the proposed parameters and guidelines be amended as shown in the following paragraphs to delete the activities that go beyond the scope of the approved mandate.

A. Homicide Reports: [Penal Code Section 13014]

One Time Activity

- ~~Revise existing policies and procedures regarding the filing of homicide reports with the Department of Justice (DOJ), including but limited to, the recording, collection, drafting, review, and submission of reports.~~

Ongoing Activities:

- ~~Record in law enforcement reports 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.~~
- ~~Gather and consolidate Extract demographic information from the electronic records management system or law enforcement reports related to homicides.~~
- ~~Draft or complete report Report the required information regarding demographics information to the DOJ for the California Department of Justice (DOJ).~~
- ~~Review and edit report.~~
- ~~Submit report to DOJ via fax, mail, or otherwise as acceptable by the DOJ.~~

B. Hate Crimes Reports: [Penal Code Section 13023]

One Time Activity

- ~~Revise existing policies and procedures regarding the filing of hate crime reports to the Attorney General (AG), including but limited to, the recording, collection, drafting, review, and submission of reports.~~

Ongoing Activities:

- ~~Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.~~
- ~~Gather and consolidate~~ Extract information from the electronic records management system or law enforcement reports related to hate crimes as defined in Penal Code Sections 422.55 and 422.56.
- ~~Draft or complete the report regarding hate crimes for the Attorney General.~~
- ~~Review and edit report~~
- ~~Submit report to the AG via fax, mail, or otherwise as acceptable~~ Report the required information in a manner prescribed by the AG.

C. Firearm Reports: [Penal Code Section 12025, Subdivisions (h)(1) & (h)(3) and 12031, Subdivision (m)(1) & (m)(3)]

One Time Activity

- ~~Revise existing policies and procedures regarding the filing of firearm reports to the AG, including but limited to, the recording, collection, drafting, review submission of reports.~~

Ongoing Activities:

- ~~Record in law enforcement reports and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code Section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.~~
- ~~Gather and consolidate~~ Extract profiles from the law enforcement reports and district attorney files or electronic records management system by race, age, gender, and ethnicity for any person charged with a felony or misdemeanor under Penal Code Section 12025 or Penal Code Section 12031.
- ~~Draft or complete report regarding firearms for the AG.~~
- ~~Review or edit report~~
- ~~Submit~~ Report the required information in a manner prescribed by to the AG via fax, mail, or otherwise as acceptable by the AG.

Ms. Paula Higashi
October 12, 2009
Page 3

D. Domestic Violence Related Calls for Assistance: [Penal Code Section 13730, Subdivision (a)]

One Time Activity

- Revise existing policies and procedures regarding the use of a written incident report for all preparation of domestic violence related calls for assistance incident reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

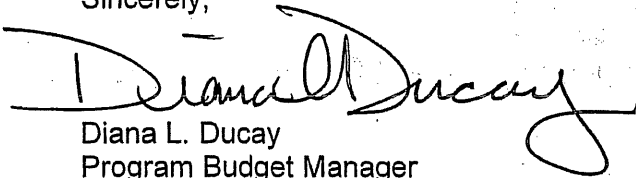
- Gather information Prepare a written incident report on all domestic-violence related calls for assistance for incident report.
- ~~Draft written incident report.~~
- ~~Review or edit report.~~

Pursuant to the test claim statutes, Finance believes the proposed changes are consistent with the reporting requirements the Commission found to be reimbursable. For instance, Finance recommends deleting the ongoing activity, "record in the law enforcement agencies reports..." because local agencies only are required to report information to the DOJ or AG. The specific investigative activities remain discretionary.

As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your September 17, 2009 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,



Diana L. Ducay
Program Budget Manager

Enclosure

PROOF OF SERVICE

Test Claim Name: Crime Statistics Reports for the Department of Justice
Test Claim Number: CSM-02-TC-04 and 02-TC-11, and CSM-07-TC-10

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On 10-12-2009, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

Mr. Glen Everroad
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659

Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

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

Mr. Allan Burdick
MAXIMUS
3130 Kilgore Road
Suite 400
Rancho Cordova, CA 95670

D-08
Ms. Marilyn Yankee
Department of Justice BCIA
P.O. Box 903427
Sacramento, CA 94203-4270

Ms. Althea Rivers
County of Sacramento
711 G Street, Room 405
Sacramento, CA 95814

B-08
Ms. Jill Kanemasu
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

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

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

Proof of Service
October 10, 2009
Page 2

Ms. Juliana F. Gmur
MAXIMUS
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Division of Audits
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Mr. Keith B. Petersen
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3270 Arena Boulevard, Suite 400-363
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Executive Director
California Peace Officers'* Association
1455 Response Road, Suite 190
Sacramento, CA 95815

Mr. Steve Shields
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1536 36th Street
Sacramento, CA 95816

Ms. Bonnie TerKeurst
County of San Bernardino
Office of the Auditor/Controller-Recorder
222 West Hospitality Lane
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Mr. J. Bradley Burgess
Public Resource Management Group
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Ms. Beth Hunter
Centration Inc.
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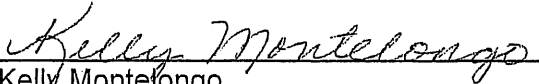
B-08
Ms. Ginny Brummels
State Controller's Office
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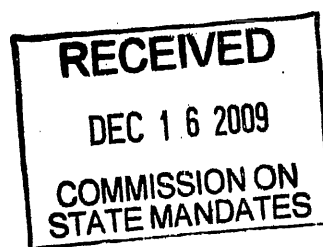
Ms. Jean Kinney Hurst
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Mr. Dale Mangram
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4080 Lemon Sstreet, 11th Floor
Riverside, CA 92502

Ms. Jolene Tollenaar
MGT of America
455 Capitol Mall, Suite 600
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on 10-12-2009 at Sacramento, California.


Kelly Montelongo



**RESPONSE TO DEPARTMENT OF FINANCE
and
STATE CONTROLLER'S OFFICE
COMMENTS ON
PROPOSED PARAMETERS AND GUIDELINES**

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

Statutes 1984, Chapter 1609 (SB 1472); 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);
Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 483 (AB 469)

Crime Statistics Reports for the Department of Justice

02-TC-04 & 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, Co-claimants

Test Claimants City of Newport Beach and County of Sacramento (hereinafter "Claimants") submit the following in response to the comments filed by the State Controller's Office (hereinafter "SCO") on October 2, 2009, and filed by the Department of Finance (hereinafter "DOF") on October 12, 2009. Claimants do not concur with the general deletion of activities throughout the comments. Both the SCO and the DOF base

their deletions on the ground that the deleted language was outside the scope of the mandate. Unfortunately, "outside the scope of the mandate" is not the test for exclusion of activities proposed in the Parameters and Guidelines.

As stated in regulation, in pertinent part:

(a) The parameters and guidelines shall describe the claimable reimbursable costs and contain the following information:

* * *

(4) Reimbursable Activities. A description of the specific costs and types of costs that are reimbursable, including one-time costs and on-going costs, and a description of the most reasonable methods of complying with the mandate. "The most reasonable methods of complying with the mandate" are those methods not specified in statute or executive order that are necessary to carry out the mandated program. (2 CCR § 1183.1, subd. (a)(4).)

Thus, inclusion of activities beyond those within the scope of the mandate is supported by the regulations.

The issue, then, is whether the proposed activities are "the most reasonable methods" and "necessary to carry out the mandated program". The mandated program in question is the mechanism by which local agencies provide information to the Department of Justice (DOJ). The DOJ uses this information for its own reports and tracking of crime data. Thus the local agencies must employ the most reasonable methods to collect, process, and convey this information to the DOJ if those methods are to be reimbursable. This analysis will be applied in turn.

Issue 1 – Raised by SCO:

I. SUMMARY OF THE MANDATE

On July 31, 2009, the Commission adopted a Statement of Decision finding that the test claim legislation on the amended test claim imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- For local law enforcement agencies beginning January 1, 2004, 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, (7) association with a person or group with one or more of these actual or perceived characteristics.

(For purposes of reporting, refer to Penal Code § 422.56 for the definitions of the perceived characteristics of the victim.)

- ~~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.~~

Issue 1 – Response:

Claimants have no position on the form the summary should take and defer to Commission staff.

Issue 2 – Raised by SCO:

III. PERIOD OF REIMBURSEMENT

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

Issue 2 – Response:

Claimants support this change as it accurately reflects the current system of cost claiming.

Issue 3 – as raised by the SCO:

A. Homicide Reports: (Pen-al Code, §13014)

One Time Activity:

- Revise existing policies and procedures regarding the filing of homicide reports, ~~including but limited to, the recording,~~ collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~Record in law enforcement reports 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.~~
- Gather and consolidate demographic information from law enforcement reports about the victim(s) and person(s) charged with the crime.
- Draft or complete report regarding demographic information for the California Department of Justice (DOJ).
- Review and edit report.
- Submit report to DOJ via fax, mail or otherwise as acceptable by the DOJ.

The SCO states in support of its changes: The activity of recordation was deleted “because it is outside the scope of the mandated reimbursable costs” and the “mandate activity is limited to gathering data from the existing reports”.

Issue 3 – as raised by the DOF:

A. Homicide Reports: (Pen-al Code, § Section 13014)

One Time Activity:

- Revise existing policies and procedures regarding the filing of homicide reports with the Department of Justice (DOJ), including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~Record in law enforcement reports 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.~~
- Gather and consolidate Extract demographic information from the electronic records management system or law enforcement reports related to homicides.
- ~~Draft or complete report~~ Report the required regarding demographic information to the DOJ for the California Department of Justice (DOJ).
- ~~Review and edit report.~~
- ~~Submit report to DOJ via fax, mail or otherwise as acceptable by the DOJ.~~

The DOF states in support of its deletions that “the activities ... go beyond the scope of the approved mandate.” Further, the DOF explains that its proposed changes “are consistent with the reporting requirements the Commission found to be reimbursable...because local agencies are only required to report information to the DOJ or AG. The specific investigative activities remain discretionary.”

Issue 4 – as raised by SCO:

B. Hate Crime Reports: (Pen-al Code, §13023)

One Time Activity:

- Revise existing policies and procedures regarding the filing of hate crime reports, ~~including but limited to, the recording,~~ collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.~~
- Gather and consolidate demographic information from law enforcement reports any information relative to hate crimes as described and defined in Penal Code §§ 422.55 and 422.56, respectively.
- Draft or complete report regarding hate crimes in a manner prescribed by for the Attorney General.
- Review and edit report.

- Submit report to ~~Attorney General~~ the Department of Justice (DOJ) via fax, mail, or otherwise as acceptable by the ~~Attorney General~~ DOJ.

The SCO states in support of its changes: The activity of recordation was deleted “because it is outside the scope of the mandated reimbursable costs and the “mandate activity is limited to gathering data from the existing reports”.

Issue 4 – as raised by DOF:

B. Hate Crime Reports: (Pen. Code, §13023)

One Time Activity:

- Revise existing policies and procedures regarding the filing of hate crime reports to the Attorney General (AG), including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.~~
- ~~Gather and consolidate~~ Extract information from the electronic records management system or law enforcement reports related to hate crimes as defined in Penal Code Sections 422.55 and 422.56.
- ~~Draft or complete report regarding hate crimes for the Attorney General.~~
- ~~Review and edit report~~
- ~~Submit report to Attorney General via fax, mail or otherwise as acceptable~~ Report the required information in a manner prescribed by the Attorney General.

The DOF states in support of its deletions that “the activities ... go beyond the scope of the approved mandate.” Further, the DOF explains that its proposed changes “are consistent with the reporting requirements the Commission found to be reimbursable....because local agencies are only required to report information to the DOJ or AG. The specific investigative activities remain discretionary.”

Issues 3 and 4 – Response:

Claimants have no position on the form the citation to the code should take and defer to Commission staff.

As noted above, the test for the inclusion of activities is whether the proposed activities are the most reasonable methods and necessary to carry out the mandated program of providing statistical information to the DOJ. For local agencies to provide this information, it is necessary that they first obtain the information from the victims and the offenders. The local agencies have various methods at their disposal that they can employ to obtain the information. For example, the information can be obtained at the time the officer is on site and is creating a report, or at a later time with a follow-up call

or in person visit, or by an in-office database search. Of these, the most efficient choice is to obtain the information when the officer is first called to the scene.

One, however, cannot send a report that hasn't been drafted or completed. Thus, the next step in the process is to cull reportable information from the various reports in preparation for transmission to the DOJ. The mechanism by which this culling takes place depends upon the manner by which the reports are made. Some jurisdictions use electronic reporting systems exclusively. Electronic reporting systems need only a query to obtain a list of reportable information. Such queries, being mechanical in nature, will produce fewer errors and require little to no review. Some jurisdictions rely on paper systems or a combination where paper reports are manually entered into computer databases. Paper systems, however, will require manual review or manual entry into an electronic system. Such manual work will likely result in greater chance of error and greater need for review and edit procedures. Therefore gathering information, drafting or completing the report and editing that report before transmission to the DOJ are also necessary to the mandate.

It might be said that the act of creating a report is voluntary on the part of the local agencies and useful to their purposes of criminal investigation relying on the statement of decision in the Distracted Driver test claim (01-TC-12). In that case, the Commission reviewed a statute that required information be gathered from accident reports and conveyed to the California Highway Patrol (CHP). The Commission found that the recordation of information was not mandated. Although this may look similar enough to defeat the Claimant's proposed activities, the analysis fails. In the Distracted Driver test claim, the issue before the Commission was whether the recordation and collection was information was mandated. This issue requires the application of a very stringent test for test claimants to overcome. In the instant case, Claimants have passed that test and the Commission has already found the mandate. The issue is at present is the lesser test of whether the proposed activities are a necessary part of the existing mandate. The question is: If the local agencies opted not to record any information nor make any reports, could they do so in light of the new mandate? No. If any agency opted to no longer use written reports, they would still need to obtain information from victims and offenders, gather that information and report it to the DOJ. So, whether the local agencies prepare the report voluntarily or whether they use the information for their own purposes is not relevant to whether those activities are necessary to the carry out the mandate.

Issue 5 – as raised by SCO:

C. Firearm Reports: (Pen-al Code, §§ 12025 subd-ivisions (h)(1) & (h)(3) & and 12031 subd-ivisions (m)(1) & (m)(3)) - *Reimbursable from July 1, 2001 to January 1, 2005.*

One Time Activity:

- o Revise existing policies and procedures regarding the filing of firearm reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~○ Record in law enforcement and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.~~
- Gather and consolidate profiles from law enforcement reports and district attorney files on profiles by race, age, gender, and ethnicity any person charged with felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, or indictment or information.
- Draft or complete report regarding firearms for the Attorney General.
- Review or edit report.
- Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.

The SCO states in support of its changes: The activity of recordation was deleted “because it is outside the scope of the mandated reimbursable costs and the “mandate activity is limited to gathering data from the existing reports”.

Issue 5 – as raised by DOF:

C. Firearm Reports: (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)) *Reimbursable from July 1, 2001 to January 1, 2005.*

One Time Activity:

- Revise existing policies and procedures regarding the filing of firearm reports to the AG, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~○ Record in law enforcement and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information.~~
- Gather and consolidate Extract profiles from the law enforcement reports and district attorney files or electronic records management system by race, age, gender, and ethnicity for any person charged with a felony or misdemeanor under Penal Code Section 12025 or Penal Code Section 12031.
- ~~○ Draft or complete report regarding firearms for the Attorney General.~~
- ~~○ Review or edit report.~~
- Submit + Report the required information in a manner prescribed by to the AG via fax, mail or otherwise as acceptable by the Attorney General.

The DOF states in support of its deletions that “the activities ... go beyond the scope of the approved mandate.” Further, the DOF explains that its proposed changes “are consistent with the reporting requirements the Commission found to be reimbursable....because local agencies are only required to report information to the DOJ or AG. The specific investigative activities remain discretionary.”

Issue 5 – Response:

Claimants have no position on the form the citation to the code should take and defer to Commission staff.

As explained in detail above, each of the proposed activities pass the “necessary to carry out the mandate” test. In the case of Firearm Reports, the recordation of information is still completed by law enforcement agencies. The reporting requirement, however, falls on the shoulders of the district attorneys and the prosecuting city attorneys.

For clarity sake, Claimants reiterate their support for the inclusion of the dates on which the reimbursement begins and ends.

Issue 6 – as raised by SCO:

D. Domestic Violence Related Calls for Assistance: (Penal Code, § 13730, subdivision (a))

One Time Activity:

- Revise existing policies and procedures regarding the preparation ~~filing~~ of domestic violence related calls for assistance incident reports, including but limited to, ~~the recording,~~ collection, drafting, review, and submission of reports.

Ongoing Activities:

- Gather and consolidate the law enforcement agencies incident reports ~~information~~ on all domestic-violence related calls for assistance ~~for incident report.~~
- Draft ~~written incident~~ complete report for the Attorney General.
- Review or edit report.
- Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.

The SCO states in support of its changes: The activity of recordation was deleted “because it is outside the scope of the mandated reimbursable costs and the “mandate activity is limited to gathering data from the existing reports”.

Issue 6 – as raised by DOF:

D. Domestic Violence Related Calls for Assistance: (Penal Code, § Section 13730, subdivision (a))

One Time Activity:

- Revise existing policies and procedures regarding the use of a written incident report for all preparation of domestic violence related calls for assistance incident reports, including but limited to, the recording, collection, drafting, review, and submission of reports.

Ongoing Activities:

- ~~Gather information~~ Prepare a written incident report on all domestic violence related calls for assistance for incident report.
- ~~Draft written incident report.~~
- ~~Review or edit report.~~

The DOF states in support of its deletions that “the activities ... go beyond the scope of the approved mandate.” Further, the DOF explains that its proposed changes “are consistent with the reporting requirements the Commission found to be reimbursable....because local agencies are only required to report information to the DOJ or AG. The specific investigative activities remain discretionary.”

Issue 6 – Response:

Claimants have no position on the form the citation to the code should take and defer to Commission staff.

As explained in detail above, each of the proposed activities pass the “necessary to carry out the mandate” test.

As for the inclusion of the activities surrounding the reporting to the AG, Claimants would like to include them but their inclusion is barred by the decision in Domestic Violence Information Test Claim (CSM 4222) where such reporting was already addressed. As noted by the Commission staff in the instant statement of decision, due to “these prior determinations, the Commission finds that it does not have jurisdiction over” the mandated activities addressed in prior test claims. “An administrative agency does not have jurisdiction to rehear a decision that has become final.”

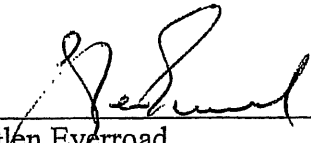
Conclusion:

As explained in detail above, Claimants properly laid out those activities for reimbursement that comply with the requirements of law. Therefore, Claimants request that the Commission adopt Claimants’ Proposed Parameters and Guidelines as filed.

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 14 day of December, 2009, at Newport Beach, California, by:

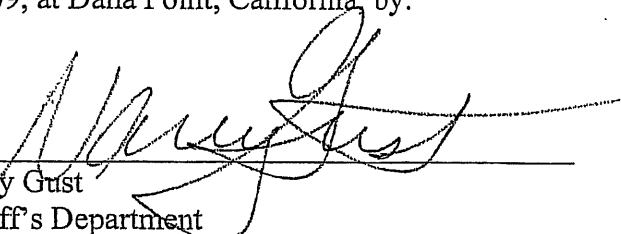


Glen Everroad
Revenue Manager
City of Newport Beach

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this _____ day of December, 2009, at Dana Point, California, by:



Nancy Gust
Sheriff's Department
County of Sacramento

PROOF OF SERVICE BY MAIL

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 3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670.

On December 16, 2009, I served:

**RESPONSE TO DEPARTMENT OF FINANCE
and
STATE CONTROLLER'S OFFICE
COMMENTS ON
PROPOSED PARAMETERS AND GUIDELINES**

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

Statutes 1984, Chapter 1609 (SB 1472); 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);
Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 483 (AB 469)

Crime Statistics Reports for the Department of Justice

02-TC-04 & 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, Co-claimants

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United States mail at Rancho Cordova, California, with postage thereon fully prepaid.

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 this 16th day of December, 2009, at Rancho Cordova, California.

Flawck

Mr. Jim Spano
State Controller's Office
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300 Capitol Mall, Suite 518
Sacramento, CA 95814

Ms. Ginny Brummels
State Controller's Office
Division of Accounting and Reporting
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Centration, Inc.
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Ms. Jolene Tollenaar
MGT of America
455 Capitol Mall, Suite 600
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**RESPONSE TO DEPARTMENT OF FINANCE
and
STATE CONTROLLER'S OFFICE
COMMENTS ON
PROPOSED PARAMETERS AND GUIDELINES**

Declaration In Support of City of Newport Beach
Declaration of Linda Beswick

I, Linda Beswick, state as follows:

1. I am a Community Service Officer for the City of Newport Beach. I have been in the employ of the City for 31 years. I have prepared reports to the Department of Justice (DOJ) since 1980. I have personal knowledge of the facts stated herein, and if called upon to testify, I could do so competently.

2. Our officers create reports in the field using either paper reports or by entering the information into a computer. The information entered into the computer is later printed.

3. As part of my job duties, I pick up the paperwork in the Records Department. I code the information into our Altaris system. After coding, I run reports which provide summary information. I then reconcile the system report with the paperwork using the system's editing function.

3. Once the information is complete, I prepare the DOJ reports which are signed by my supervisor and sent to the DOJ.

4. I have been contacted by the DOJ to verify information or for additional explanation regarding the reports. This occurs 2 to 3 times a year.

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I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this 16th day of December, 2009, at Newport Beach, California.

Linda Beswick #412
Linda Beswick
City of Newport Beach



COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
 SACRAMENTO, CA 95814
 PHONE: (916) 323-3562
 FAX: (916) 445-0278
 E-mail: csminfo@csm.ca.gov

Exhibit G

June 25, 2010

Mr. Allan Burdick
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 Rancho Cordova, CA 95670

Mr. Glen Everroad
 City of Newport Beach
 3300 Newport Blvd.
 P.O. Box 1768
 Newport Beach, CA 92659

Ms. Nancy Gust
 County of Sacramento
 711 G Street
 Sacramento, CA 95814

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

RE: Draft Staff Analysis, Proposed Parameters and Guidelines and Notice of Hearing
Crime Statistics Reports for the Department of Justice, 02-TC-04 and 02-TC-11
 Penal Code Sections 12025, Subdivision (h)(1) and (h)(3), 12031, Subdivision (m)(1) and
 (m)(3), 13014, 13023, and 13730, Subdivision (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 Mr. Burdick, Mr. Everroad and Ms. Gust:

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

Written Comments

Any party or interested person may file written comments on this matter by **July 9, 2010**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This matter is set for hearing on **Thursday, July 29, 2010** at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about July 15, 2010. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

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Mr. Burdick, Mr. Everroad and Ms. Gust

June 25, 2010

Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Paula Higashi". The signature is written in a cursive style with a large, looping initial "P".

PAULA HIGASHI
Executive Director

Enclosures

ITEM _____
PROPOSED PARAMETERS AND GUIDELINES
DRAFT STAFF ANALYSIS

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

Executive Summary

Background

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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (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.

Staff Analysis

The main issues in dispute involve the scope of the reimbursable activities in Section IV of the parameters and guidelines. For the reasons stated in the analysis, staff recommends that the Commission approve reimbursement for the following activities in Section IV of the claimants' proposed parameters and guidelines, as modified by staff:

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, subdivisions (h)(1) and (h)(3),

12031, subdivisions (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, subdivision (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 local government entity 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 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 the Department of Justice.
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.

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

For local 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 law enforcement records in order to report the information to the Department of Justice.
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.

- C. Firearm Reports: (Pen. Code, §§ 12025, subd. (h)(1) & (h)(3) & 12031, subd. (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, in a manner prescribed by the Attorney General, profiles by 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.

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

The following activity, performed by local law enforcement agencies, is eligible for reimbursement:

1. Support all domestic-violence related calls for assistance with a written incident report.

Conclusion and Staff Recommendation

Staff recommends that the Commission:

- Adopt the Claimants' proposed consolidated parameters and guidelines, as modified by staff, beginning on page 16.
 - Authorize staff to make non-substantive, technical corrections to the parameters and guidelines following the hearing.
-

STAFF ANALYSIS

Claimant

City of Newport Beach
County of Sacramento

Chronology

- 06/26/08 Commission adopts Statement of Decision on 02-TC-04 and 02-TC-11
- 06/26/08 Claimant notifies Commission they will be developing joint RRM with Finance on 02-TC-04 and 02-TC-11
- 06/15/09 Finance notifies Commission they are no longer developing joint RRM on 02-TC-04 and 02-TC-11.
- 06/16/09 Commission notifies claimant they have 30 days to submit proposed parameters and guidelines and tentatively sets proposed parameters and guidelines for hearing on December 4, 2009
- 07/30/09 Claimant notifies Commission they will be developing joint RRM with Finance on 07-TC-10
- 7/31/09 Commission adopts Statement of Decision on 07-TC-10
- 09/03/09 Claimants submit proposed consolidated parameters and guidelines on 02-TC-04, 02-TC-11, and 07-TC-10
- 10/06/09 State Controller's Office files comments on claimants' proposed parameters and guidelines
- 10/15/09 Department of Finance submits comments on claimants' proposed consolidated parameters and guidelines
- 12/16/09 Claimants file reply

Background

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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (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.

Discussion

Staff reviewed the claimants' proposed parameters and guidelines and the comments received from the Department of Finance and State Controller's Office.

Non-substantive changes were made to the following sections of the proposed parameters and guidelines:

- The title of the parameters and guidelines was modified to reflect only the statutes that were approved by the Commission.

- Section I, Summary of the Mandate, and Section III, Period of Reimbursement, were amended to conform the parameters and guidelines to the Commission’s Statement of Decisions on these claims and to current law.

The parties have raised issues regarding Section IV, Reimbursable Activities. These issues are discussed below.

In addition, although the claimants notified the Commission that they would submit a joint reasonable reimbursement methodology with the Department of Finance, no filing has been submitted. The proposed parameters and guidelines authorize reimbursement based on actual costs claimed.

Section IV, Reimbursable Activities

One-Time Activities

The claimants request reimbursement for one-time activities to revise existing policies and procedures regarding the mandated activities. The Department of Finance and the State Controller’s Office do not object to reimbursement for revising policies and procedures, but have requested that the language in the parameters and guidelines be narrowed.

Staff recommends that the Commission move the activities under a separate “One-Time Activities” header, and revise and clarify the language to make it specific to the activities found by the Commission to be reimbursable state-mandated activities as follows:

- 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, subdivisions (h)(1) and (h)(3), 12031, subdivisions (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, subdivision (a) (as amended by Stats. 1993, ch. 1230) to support all domestic violence related calls for assistance with a written incident report.

Ongoing Reporting Activities for Homicide, Hate Crimes, and Firearms Reports

The Commission approved these test claims to report the following crime data to the Department of Justice and the Attorney General’s Office:

- Homicide Reports. 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).
- Hate Crimes. 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

based on hate crime (Pen. Code, § 13023). The test claim statute was amended in 2004 to clarify the definition of hate crime as provided in Penal Code section 422.55.

- Firearm Reports. 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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)).

For each of these activities, the claimants request reimbursement for recording in local law enforcement and district attorney reports, when the crime occurs or charge filed, the information required to be reported to the state. The claimants argue that the activity of “recording” is the most reasonable method of complying with the mandate to report the information to the state. The claimants argue as follows:

As noted above, the test for the inclusion of activities is whether the proposed activities are the most reasonable methods and necessary to carry out the mandated program of providing statistical information to the DOJ. For local agencies to provide this information, it is necessary that they first obtain the information from the victims and the offenders. The local agencies have various methods at their disposal that they can employ to obtain the information. For example, the information can be obtained at the time the officer is on site and is creating a report, or at a later time with a follow-up call or in person visit, or by an in-office database search. Of these, the most efficient choice is to obtain the information when the officer is first called to the scene.

[¶]

It might be said that the act of creating a report is voluntary on the part of the local agencies and useful to their purposes of criminal investigation relying on the statement of decision in the Distracted Driver test claim (01-TC-12). In that case, the Commission reviewed a statute that required information be gathered from accident reports and conveyed to the California Highway Patrol (CHP). The Commission found that the recordation of information was not mandated. Although this may look similar enough to defeat the Claimant’s proposed activities, the analysis fails. In the Distracted Driver test claim, the issue before the Commission was whether the recordation and collection was [sic] information was mandated. This issue requires the application of a very stringent test for test claimants to overcome. In the instant case, Claimants have passed that test and the Commission has already found the mandate. The issue is [sic] at present is the lesser test of whether the proposed activities are a necessary part of the existing mandate. The question is: If the local agencies opted not to record any information nor make any reports, could they do so in light of the new mandate? No. If any agency opted to no longer use written reports, they would still need to

obtain information from victims and offenders, gather that information and report it to the DOJ. So, whether the local agencies prepare the report voluntarily or whether they use the information for their own purposes is not relevant to whether those activities are necessary to the [sic] carry out the mandate.¹

The Department of Finance and the State Controller's Office contend that the activity of "recording" in local reports the information required to be reported to the state is not reimbursable and goes beyond the scope of the mandate approved by the Commission. The Department of Finance and the State Controller's Office contend that the reimbursable activity simply requires extracting or gathering information from existing records to complete the reports required by the state.²

"Recording" demographic and arrest information in local reports is not mandated by the plain language of the test claim statutes. However, section 1183.1, subdivision (a)(4), allows the Commission to include in the parameters and guidelines activities that are considered the "most reasonable methods of complying with the mandate." Section 1183.1, subdivision (a)(4), specifically provides that the parameters and guidelines shall contain a description of the specific costs and types of costs that are reimbursable and a description of the most reasonable methods of complying with the mandate. The "most reasonable methods of complying with the mandate" are those methods not specified in statute or executive order that are necessary to carry out the mandated program.

For the reasons below, staff finds that the activity of recording in local law enforcement and district attorney reports the information required to be reported to the state does not constitute the most reasonable method of complying with the reporting mandates because local agencies have been required by other statutes to maintain such records since before the enactment of the test claim statutes.

The test claim statutes require the reporting of demographic information regarding the age, gender, race, and ethnicity of homicide victims and persons charged with a homicide and of persons charged with carrying a concealed or loaded firearm. Local agencies are also required to report annually and monthly "any information that may be required relative to hate crimes" to the Department of Justice.³ Such information includes a description of the criminal acts that caused physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability.

Since 1955, Penal Code section 13020 has required local law enforcement agencies and district attorneys to install and maintain local records needed for the correct reporting of statistical data of crime.⁴ Penal Code section 13020 states in relevant part the following:

¹ Exhibit ____, Claimant's response to the Department of Finance and State Controller's comments, received December 16, 2009.

² Exhibits ____.

³ "Criminal Statistics Reporting Requirements," published by the Department of Justice in February 2006, pages 16 and 17. (Exhibit ____.)

⁴ Statutes 1955, chapter 1128.

It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, [other state agencies], and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

In addition, Penal Code sections 13102 and 13125, enacted in 1973 (Stats. 1973, ch. 992), require that all basic information stored in local criminal offender record information systems, be recorded in standard data elements that include the offender's personal identification, including race, age, and gender, and a description of the arrest data. Local agencies are required by existing law to report the same data for each arrest made to the Department of Justice. (Pen. Code, § 13150.) Thus, keeping local records regarding the age, gender, race/ethnicity of the offender and the arrest data of the offender is required by other statutes and is not, by definition, the most reasonable method of complying with the reporting mandate in Penal Code sections 12025, 12031, 13014, and 13023.

Staff further finds that recording the age, gender, race/ethnicity of a homicide *victim* in local records is not a reasonable method of complying with the homicide reporting mandate imposed by Penal Code section 13014. Since 1969, local agencies have been required to report information about justifiable homicides to the Department of Justice on a form provided by the Department of Justice.⁵ The report is due monthly and is filed on either the Department of Justice form BCS-15 (Supplemental Homicide Report) or the FBI form (Return A.)⁶ The Supplementary Homicide Report, revised July 11, 1975, and in September 1990, requires the reporting of the victim's age, sex, and race.⁷ "Justifiable homicide" is determined by the trier of fact and connotes only the use of force which is necessary, or which reasonably appears to be necessary, to resist other party's misconduct. Use of excessive force destroys the justification.⁸ Thus, before the enactment of the test claim statute, local agencies were already required to record and report information to the Department of Justice regarding the age, sex, and race of the victims of homicide determined to be justified. In addition, the county coroner has the duty to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths, and is further required by law to keep an official "Coroner's Register" that contains the "name and any aliases of the deceased, when known, *including such description as*

⁵ Penal Code section 13022 (Stats. 1969, ch. 1089.)

⁶ "Criminal Statistics Reporting Requirements," published by the Department of Justice in 2002 and 2006, page 10. (Exhibit ____.)

⁷ See Department of Justice comments on the test claim, dated January 28, 2003. (Exhibit ____.)

⁸ Justifiable homicide is defined in Penal Code sections 196 and 197, and connotes only the use of force which is necessary, or which reasonably appears to be necessary, to resist other party's misconduct. Use of excessive force destroys the justification. (*People v. Young* (1963) 214 Cal.App.2d 641.)

may be sufficient for identification ...” (Emphasis added.)⁹ The information maintained by the coroner would include the victim’s sex, age, and race.

Therefore, staff finds that the requested activity of recording in local law enforcement and district attorney reports the information required to be reported to the state is not reimbursable.

Finally, the claimants request reimbursement for the activity of reviewing and editing the report to the State. These activities were not approved in the Statements of Decision as reimbursable state-mandated activities. In addition, there is no evidence in the record from law enforcement agencies or district attorneys’ offices to support the conclusion that review and edit activities are the most reasonable methods of complying with the mandate to report information to the Department of Justice and Attorney General’s Office. Thus, staff recommends that the Commission deny the claimants’ request for reimbursement to review and edit.

Staff has modified the language proposed by the claimant for these reporting activities to include the citation to the test claim statutes and to authorize reimbursement for extracting the demographic information required to be reported from local records, and reporting the information to the Department of Justice on forms identified in the Department of Justice’s publication “Criminal Statistics Reporting Requirements” and/or in the manner prescribed by the Department of Justice. The proposed language is as follows (the ~~strikeout~~ and underline version is in the attached claimant proposed consolidated parameters and guidelines, as modified by staff):

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

For a local government entity 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 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 Department of Justice.
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.

⁹ Government Code sections 27463, 27491.

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

For local 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 law enforcement records in order to report the information to the Department of Justice.¹⁰
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.

- C. Firearm Reports: (Pen. Code, §§ 12025, subd. (h)(1) & (h)(3) & 12031, subd. (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, in a manner prescribed by the Attorney General, profiles by 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.

¹⁰ 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.)

Written Report for Domestic Violence Related Calls for Assistance

The Commission determined that Penal Code section 13730, subdivision (a), as amended in 1993 (Stats. 1993, ch. 1230) imposes a reimbursable state-mandated activity on local law enforcement agencies to “support all domestic-violence related calls for assistance with a written incident report.” The 1993 amendment to the statute added only the underlined language in subdivision (a).

- (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.
- (b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.
- (c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.¹¹

As indicated in the Statement of Decision in the present case for 02-TC-04 and 02-TC-11, the Commission had issued prior decisions on the 1984, 1995, and 2001 amendments to Penal Code section 13730, subdivision (c), and adopted parameters and guidelines, which authorized reimbursement for the costs associated with the development of a domestic violence incident report form, writing the domestic violence reports, and compiling and submitting monthly summary reports to the Attorney General.¹² The 1995 and 2001 amendments required additional information to be included in the incident reports; i.e., notations of whether the officer observed signs that the alleged abuser was under the influence of alcohol or controlled substances, whether law enforcement had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim, and whether a firearm or other deadly weapon was present at the scene.¹³ The 1984, 1995, and 2001 mandates have been continuously suspended

¹¹ The bill enacted in 1993 to amend Penal Code section 13730 (AB 2250) also made amendments to the definition of domestic violence in Penal Code section 13700. The purpose of the bill was to clarify the definition and reporting requirements so that law enforcement agencies would interpret the provisions uniformly. (Exhibit ____, Senate Floor Analysis, dated September 10, 1993, Assembly Bill 2250 (1993-1994 leg. Sess.).)

¹² *Domestic Violence Information* (CSM 4222), *Domestic Violence Training and Incident Reporting* (CSM 96-362-01), and *Crime Victims' Domestic Violence Incident Reports II* (CSM 02-TC-18).

¹³ See current Penal Code section 13730, subdivision (c) (1)-(3).

by the Legislature and made voluntary in each fiscal year of the suspension pursuant to Government Code section 17581.

The 1993 amendment to Penal Code section 13730, subdivision (a), that requires local law enforcement agencies to “support all domestic-violence related calls for assistance with a written incident report” was not pled in these earlier test claims and, thus, had never been suspended by the Legislature. Thus, the Commission determined that the activity constituted a mandated new program or higher level of service.

The claimants request that the parameters and guidelines authorize reimbursement to:

- Gather information on all domestic-violence related calls for assistance for the incident report.
- Draft the written incident report.
- Review or edit the report.

The State Controller’s Office filed comments proposing changes and adding the activity to complete and submit a domestic violence incident report to the Attorney General’s Office.

The Department of Finance requests modification to the claimant’s proposed language, as follows:

- ~~Gather information~~ Prepare a written incident report on all domestic-violence related calls for assistance ~~for the incident report.~~
- ~~Draft the written incident report.~~
- ~~Review or edit the report.~~

Staff disagrees with the language proposed by the State Controller’s Office that allows reimbursement to complete and submit a domestic violence incident report to the Attorney General’s Office. The activity to complete and submit a report to the Attorney General’s Office was not added by the 1993 statute and was previously included in the parameters and guidelines for *Domestic Violence Information* (CSM 4222), which has been suspended by the Legislature. In addition, the activity was not approved by the Commission as a reimbursable activity in these test claims; 02-TC-04, 02-TC-11, or 07-TC-10. Thus, the activity is not reimbursable here.

Staff recommends the language in the parameters and guidelines for this activity be modified to closely match the language of Penal Code section 13730, subdivision (a). Staff further finds that there is no evidence in the record to support the conclusion that reviewing or editing the report, as proposed by the claimants’ is the most reasonable method of complying with the mandate to “support all domestic-violence related calls for assistance with a written incident report.” Staff recommends the following language:

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

The following activity, performed by local law enforcement agencies, is eligible for reimbursement:

1. Support all domestic-violence related calls for assistance with a written incident report.

Conclusion and Staff Recommendation

Staff recommends that the Commission:

- Adopt the claimants' proposed consolidated parameters and guidelines, as modified by staff, beginning on page 16.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

**CLAIMANTS' PROPOSED CONSOLIDATED
PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF**

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

~~Statutes 1984, Chapter 1609 (SB 1472); 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); Statutes 2001, Chapter 483 (AB 469)~~

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

I. SUMMARY OF THE MANDATE

On June 26, 2008, the Commission on State Mandates (Commission) ~~adopted a Statement of Decision finding that the test claim legislation on the original test claim imposes a partially reimbursable state mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities: 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 finds 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 subd. (h)(1) & (h)(3) & 12031 subd. (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, subd. (a), Stats. 1993, ch. 1230).

~~On July 31, 2009, the Commission adopted a Statement of Decision finding that the test claim legislation on the amended test claim imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:~~

- ~~• For local law enforcement agencies beginning January 1, 2004, 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 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.

II. ELIGIBLE CLAIMANTS

Any county, city, or city and county.

III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The City of Newport Beach filed the original test claim on September 6, 2002. Therefore, costs incurred pursuant to Crime Statistics Reports for the Department of Justice Test Claim are reimbursable on or after July 1, 2001. The City of Newport Beach and the County of Sacramento jointly amended the test claim. Costs incurred pursuant to the amended test claim are reimbursable on or after January 1, 2004.~~

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

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

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The City of Newport Beach and the County of Sacramento filed the *Crime Statistics Reports for the Department of Justice* test claims (02-TC-04 and 02-TC-11) on September 6, 2002, and November 22, 2002, respectively, establishing eligibility for reimbursement beginning July 1, 2001. The *Crime Statistics Reports for the Department of Justice Amended* test claim (07-TC-10) was filed as an amendment to 02-TC-04 and 02-TC-11 and, pursuant to Government Code section 17557, subdivision (e), does not affect the filing date or period of reimbursement of the original test claims. However, Penal Code section 13023, as amended by Statutes 2004, chapter 700, became operative and effective on January 1, 2005. Therefore, the costs incurred for compliance with the mandated activities found in Penal Code section 13023, as amended by Statutes 2004, chapter 700, are reimbursable on or after January 1, 2005.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

3. Pursuant to Government Code section 17560, a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices and receipts.

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

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

For each eligible claimant, the following activities are ~~reimbursable~~ eligible 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, subdivisions (h)(1) and (h)(3), 12031, subdivisions (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, subdivision (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)

~~One Time Activity:~~

- ~~● Revise existing policies and procedures regarding the filing of homicide reports, including but limited to [sic], the recording, collection, drafting, review, and submission of reports.~~

~~Ongoing Activities:~~

For a local government entity 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:

- ~~● Record in law enforcement reports 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.~~
 - ~~● Gather and consolidate demographic information from law enforcement reports.~~
 - ~~● Draft or complete report regarding demographic information for the California Department of Justice (DOJ).~~
 - ~~● Review and edit report.~~
 - ~~● Submit report to DOJ via fax, mail or otherwise as acceptable by the DOJ.~~
1. Extract 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, 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.

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

~~One Time Activity:~~

~~Revise existing policies and procedures regarding the filing of hate crimes reports, including but limited to [sic], the recording, collection, drafting, review, and submission of reports.~~

~~Ongoing Activities:~~

- ~~• Record in law enforcement reports any information that may be required by Attorney General relative to hate crimes, as defined in Penal Code sections 422.55 and 422.56.~~
- ~~• Gather and consolidate information from law enforcement reports.~~
- ~~• Draft and consolidate information from law enforcement reports.~~
- ~~• Review and edit report~~
- ~~• Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.~~

For local 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 law enforcement records in order to report the information to the Department of Justice.¹
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.

~~C. Firearm Reports: (Pen. Code, §§ 12025, subd. (h)(1) & (h)(3) & 12031, subd. (m)(1) & (m)(3); Stats. 1999, ch. 571) *Reimbursable from July 1, 2001 to January 1, 2005.*~~

~~One-Time Activity:~~

- ~~• Revise existing policies and procedures regarding the filing of firearm reports, including but limited to [sic], the recording, collection, drafting, review, and submission of reports.~~

~~Ongoing Activities:~~

- ~~• Record in law enforcement and district attorney files profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under Penal Code section 12025 (carrying a concealed firearm) or under Penal Code section 12031 (carrying a loaded firearm in a public place);~~

¹ 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.)

~~and any other offense charged in the same complaint, indictment, or information.~~

- ~~• Gather and consolidate profiles from law enforcement reports and district attorney files.~~
- ~~• Review or edit report.~~
- ~~• Submit report to Attorney General via fax, mail or otherwise as acceptable by the Attorney General.~~

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, in a manner prescribed by the Attorney General, profiles by 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.

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

One-Time Activity:

- ~~• Revise existing policies and procedures regarding the preparation of domestic violence related calls for assistance incident reports, including but limited to [sic], the recording, collection, drafting, review, and submission of reports.~~

Ongoing Activities:

- ~~• Gather information on all domestic violence related calls for assistance for incident report.~~
- ~~• Draft written incident report.~~
- ~~• Review or edit report.~~

The following activity, performed by local law enforcement agencies, is eligible for reimbursement:

1. Support all domestic-violence related calls for assistance with a written incident report.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

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

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) and the indirect shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B).) However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

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

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

1. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) separate a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to

mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter² is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

² This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

Commission on State Mandates

Original List Date: Mailing Information: Draft Staff Analysis
Last Updated: 3/22/2010
List Print Date: 06/25/2010 **Mailing List**
Claim Number: 07-TC-10 (02-TC-04 & 11)
Issue: Crime Statistics Reports for the Department of Justice - Amended

Related Matter(s)

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

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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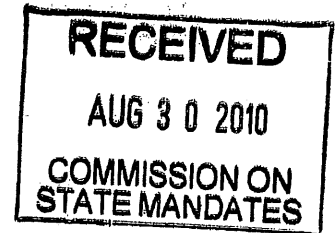
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**RESPONSE TO COMMISSION
DRAFT STAFF ANALYSIS OF
PROPOSED PARAMETERS AND GUIDELINES**

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

Statutes 1984, Chapter 1609 (SB 1472); 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);
Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 483 (AB 469)

Crime Statistics Reports for the Department of Justice

02-TC-04 & 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, Co-claimants

Test Claimants City of Newport Beach and County of Sacramento (hereinafter "Claimants") submit the following in response to Commission Staff's Draft Staff Analysis issued June 25, 2010.

Claimants concur with the Staff on the issues of One-Time Activities and Firearm Reports. Claimants, however, argue that the issues of Homicide Reports, Hate Crime

Reports and Domestic Violence Related Calls for Assistance have been too narrowly defined so as to exclude some reimbursable activities.

As stated in regulation, in pertinent part:

(a) The parameters and guidelines shall describe the claimable reimbursable costs and contain the following information:

* * *

(4) Reimbursable Activities. A description of the specific costs and types of costs that are reimbursable, including one-time costs and on-going costs, and a description of the most reasonable methods of complying with the mandate. "The most reasonable methods of complying with the mandate" are those methods not specified in statute or executive order that are necessary to carry out the mandated program. (2 CCR § 1183.1, subd. (a)(4).)

For both Hate Crimes and Homicide Reports, Staff has excluded the activity of reviewing and editing the reports. For those jurisdictions that are fully automated, the review and editing process is unnecessary and thus not performed. For Claimant Newport Beach, however, the Declaration of Linda Beswick¹ explains that some of her reports have been sent back by the Department of Justice (hereinafter "DOJ"). This rejection necessitates reviewing and editing to correct the report. If the *sine qua non* of the mandate is to provide reports to the DOJ for its use, then a necessary part of that is to ensure that the reports are in the proper, acceptable format. In this case, the review and editing process, to make corrections as directed or to prevent corrections, should be included as part of the reimbursable activities to the extent that those activities are performed.

Claimants note that Staff's version of the Parameters and Guidelines sets forth two activities, extracting and reporting, with broad enough language to incorporate any initial review and editing as part of extracting, should the Commission find sufficient evidence was presented to support these activities. Any subsequent corrections, however, would need to be addressed. Therefore, Claimants propose:

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

* * *

2. Report to the Department of Justice, to the Department's satisfaction, on a monthly basis, demographic information about the homicide victim and the person or person's charged with the crime of homicide, including 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

¹ See Claimants' Response To Department of Finance and State Controller's Office Comments on Proposed Parameters and Guidelines, Declaration In Support of City of Newport Beach, Declaration of Linda Beswick.

submitting DOJ Form BCIA 15 (Supplemental Homicide Report), or other form distributed in accordance with Penal Code section 13014 by the Department of Justice.

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

* * *

2. Report to the Department of Justice, to the Department's satisfaction, 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, or manually by submitting the crime agency report, or other manner prescribed by the Attorney General.

For Domestic Violence Related Call for Assistance, Staff has excluded the activity of reviewing the incident reports. The mandate requires that domestic violence incidents be supported with a report. Law enforcement reports are important documents that must be carefully drafted and reviewed. As explained by Sergeant Alan Kobayahsi,² he reviews these domestic violence reports for accuracy, completeness and neutrality. Such review is important and necessary in light of the fact that these domestic violence reports are relied upon in courts and by law enforcement as a historical account of prior domestic violence incidents between the parties.

Finally, this mandate was considered for a Reasonable Reimbursement Methodology (hereinafter "RRM") negotiated with the Department of Finance. Too many variations among the jurisdictions proved it was not a good RRM candidate, at this time. The repetitive nature of the reimbursable activities, however, will lend itself to jurisdictional time studies. Therefore, Claimants request that Staff add its standard time study language to the Parameters and Guidelines.

Conclusion:

Claimants request that the Commission adopt the above-stated changes to the Staff's version of proposed Parameters and Guidelines.

² See Declaration of Sergeant Alan S. Kobayashi attached hereto and incorporated herein as though fully set forth.

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 16th day of August, 2010, at Sacramento, California, by:



Nancy Gust
Sheriff's Department
County of Sacramento

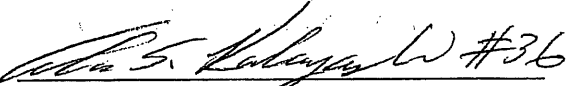
DECLARATION OF SERGEANT ALAN S. KOBAYASHI

I, Sergeant Alan S. Kobayashi, state:

That I am a Sheriff's Sergeant with the Sacramento County Sheriff's Department, and I am one (1) of the sergeants responsible for reviewing domestic violence incident reports received from Field Services. I have been in this position since 1997, and I have knowledge of the facts stated herein and if called to testify, I could do so completely.

In my role as a sergeant I have to review all domestic violence reports received for accuracy, completeness, neutrality. Review is an important part of the process because the Domestic Violence report is relied upon in criminal and family law courts. It is also relied upon by law enforcement as an accurate historical record of Domestic Violence calls between the parties when new calls come in. It takes approximately 12-14 minutes to review each report.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is executed this 12th day of August, 2010, at Sacramento, California.

 #36 8/12/10
Sergeant Alan S. Kobayashi #36

PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Fresno, and I am over the age of 18 years and not a party to the within action. My place of employment is 3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670.

On August 26, 2010, I served:

**RESPONSE TO COMMISSION
DRAFT STAFF ANALYSIS OF
PROPOSED PARAMETERS AND GUIDELINES**

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

Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202);
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Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491);
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Crime Statistics Reports for the Department of Justice

02-TC-04 & 02-TC-11

AND

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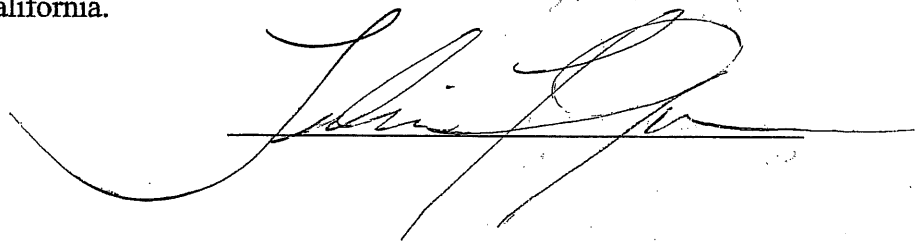
Crime Statistics Reports for the Department of Justice Amended

07-TC-10

City of Newport Beach and County of Sacramento, Co-claimants

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United States mail at Clovis, California, with postage thereon fully prepaid.

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 this 26 day of August, 2010, at Clovis, California.

A handwritten signature in black ink, written over a horizontal line. The signature is highly stylized and cursive, appearing to consist of several overlapping loops and flourishes. The line extends to the left and right of the signature.

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214 Cal.App.2d 641, 29 Cal.Rptr. 595
(Cite as: 214 Cal.App.2d 641)

EXHIBIT I

THE PEOPLE, Plaintiff and Respondent,
v.
CHARLES EDWARD YOUNG, Defendant and Appellant.
Crim. No. 7945.

District Court of Appeal, Second District, Division 2,
California.
Mar. 29, 1963.

HEADNOTES

(1) Criminal Law § 1319--Appeal--Questions of Law and Fact--Substantial Evidence.

The rule that a judgment will not be reversed on appeal if there is substantial evidence to support the verdict on any theory on which it might have been reached is not applicable where the jury is precluded by erroneous instructions from considering a valid theory on which a different result from that actually reached might have been supported; such error is not canceled by the fact that the jury might have found for the prevailing party on some other ground.

(2) Criminal Law § 734--Instructions--Theories.

Defendant is entitled to instructions on his theory of the case as disclosed by the evidence, and on every material question on which there is any evidence deserving of any consideration. That evidence may not be of a character to inspire belief does not authorize the refusal of an instruction based thereon since the credibility of the evidence is within the jury's exclusive province; however incredible the testimony of defendant may be, he is entitled to an instruction based on the hypothesis that it is entirely true.

(3) Homicide § 165--Province of Court and Jury--Self-defense.

Although justifiable homicide connotes only the use of force which is necessary, or which reasonably appears to be necessary, to resist the other party's misconduct, and the use of excessive force destroys the justification, the question of whether there was such an excess is ordinarily one of fact for the jury to determine.

(4) Robbery § 4--Elements--Asportation.

The general rule is that the attempted escape of a robber with or without the loot is an integral part of robbery and falls in the category of *res gestae*. See **Cal.Jur.2d**, Robbery, § 6; **Am.Jur.**, Robbery (1st ed §§ 5-23).

(5) Homicide § 33--Justification--Defense of Property.

Where a party's money was snatched from his hand so quickly that no particular force was required and no fear engendered on the instant, but mere demand for return of the money brought forth an open knife and a threat to kill the victim of the robbery, he had a right to use reasonable force to recover his money, and, if actually or apparently reasonably necessary, to kill the robber in so doing. But when the point of reasonable force is past, justification ceases.

See **Cal.Jur.2d**, Homicide, § 262; **Am.Jur.**, Homicide (1st ed § 172).

(6) Homicide § 267--Appeal--Reversible Error--Instructions.

Though it appeared to an appellate court that under all the evidence in a homicide trial the jury could not but find that defendant used excessive and savage force that resulted in the death of the victim, where there was a factual conflict in the evidence as to who inflicted the fatal wound and how it was done, failure of the trial court to submit the factual question of excessive force coupled with the trial court's refusal of requested instructions on justifiable homicide constituted a miscarriage of justice and the denial of an essentially fair trial.

SUMMARY

APPEAL from a judgment of the Superior Court of Los Angeles County. Lloyd S. Nix, Judge. Reversed.

Prosecution for voluntary manslaughter. Judgment of conviction reversed.

COUNSEL

David Daar, under appointment by the District Court of Appeal, for Defendant and Appellant.

Stanley Mosk, Attorney General, William E. James, Assistant Attorney General, and Stanley X. Cook,

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Deputy Attorney General, for Plaintiff and Respondent.

ASHBURN, J.

Defendant Young appeals from a judgment convicting him of voluntary manslaughter of one Clifton Lee Harris. His counsel raises the single contention that “the trial judge refused to instruct upon the theory of justifiable homicide on attempting to prevent commission of a felony,” and thereby erred prejudicially.

The court gave certain instructions upon justifiable homicide (which were in fact explanatory of the doctrine of self-defense), pertinent portions of which are set forth in the footnote.^{FN1} Appellant's rejected requests were based upon *644 subdivisions 1 and 2 of Penal Code, section 197: “Homicide is also justifiable when committed by any person in either of the following cases: 1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or, 2. When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein. ...” Those requests are copied in footnote 2.^{FN2}

FN1 “CALJIC 321-B. Justifiable Homicide. Lawful Defense of Person.

“Homicide is justified and not unlawful when committed by any person in the lawful defense of such person, when there is reasonable ground to apprehend a design to commit a felony, or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed.

“A bare fear of the commission of any of the offenses mentioned in this instruction, to prevent which homicide may be lawfully committed, is not sufficient to justify it. The

circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of such fears alone.”

“CALJIC 322. Justifiable Homicide in Self-Defense. Guiding Principle.

“A homicide is justifiable and not punishable when committed by a person in the lawful defense of himself, when he has reasonable ground to apprehend that he is in danger or death or great bodily injury and that there is imminent danger of such a design being accomplished. The acts which a person may do in self-defense and justify under a plea of self-defense depend upon the conduct of those involved in the encounter and the circumstances attending it. No fixed rule is applicable to every case, but certain general principles are established as guides for the jury's determination. ...”

FN2 “CALJIC 321-A. Justifiable Homicide in Defense of Person, Habitation or Property.

“Homicide is justifiable and not unlawful when committed by any person in defense of habitation, property or person against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner to enter the habitation of another for the purpose of offering violence to any person therein.

“A bare fear of the commission of any of the offenses mentioned in this instruction, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party must have acted under the influence of such fears alone.”

“CALJIC 321. Justifiable Homicide Resisting Attempt to Commit Felony.

“Homicide is justifiable and not unlawful

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when committed by any person when resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.”

Counsel's argument in this court is that appellant, in a running fight which ended in Harris' death, was engaged in resisting an attempt to commit a felony, namely, robbery; that the court refused to submit this theory to the jury and thus deprived him of a fair trial. The prosecution's evidence would square with this theory up to a certain point where it indicates that defendant resorted to excessive violence and stabbed his opponent to death while he was lying helpless in the gutter. Defendant's own theory, his testimony, was that he continuously fought Harris to prevent his taking defendant's money from him and to compel return of it after he had snatched it from appellant's hand; also that no excessive force had been used and decedent threw and impaled himself upon appellant's knife, thus inflicting the fatal wound.

(1) In examining the question of error in refusing to *645 instruct upon defendant's theory the reviewing court must assume that the jury might have believed appellant's story and found according to his theory had appropriate instruction thereon been given. Clement v. State Reclamation Board, 35 Cal.2d 628, 643 [226 P.2d 897]: “[Respondents] rely on the rule that a judgment will not be reversed on appeal if there is substantial evidence to support the verdict on any theory on which it might have been reached. ... It is not applicable, however, to a case such as this, in which the jury has been precluded by erroneous instructions from considering a valid theory upon which a result different from that actually reached might have been supported. The error in such a case is not cancelled by the fact that the jury might have found for the prevailing party on some other ground. ’ ’It is true that in determining whether a verdict is supported by the evidence, we must assume that the jury accepted the view most favorable to the respondent. However, in determining whether or not the instructions given are correct, we must assume that the jury might have believed the evidence upon which the [cause of action or defense of] the losing party was predicated, and that if the correct instruction had been given upon that subject the jury might have rendered a verdict in favor of the losing party.” [Citations.] Where, as here, the error consisted in instructing the jury as a matter of law on a question that is one of fact on conflicting

evidence, and a determination favorable to the losing party might have been made if the error had not been committed, that error is prejudicial. [Citations.]” To the same effect see Chalmers v. Ebbert, 128 Cal.App.2d 374, 378 [275 P.2d 629]; Phillips v. G. L. Truman Excavation Co., 55 Cal.2d 801, 806 [13 Cal.Rptr. 401, 362 P.2d 33].

(2) Moreover, the trial judge cannot reject defendant's theory because he finds the supporting proof to be not credible. If there is any supporting evidence of substantiality the trial judge must accept it for purpose of instructing the jury. People v. Carmen, 36 Cal.2d 768, 773 [228 P.2d 281]: “It has been held that a defendant is entitled to instructions on his theory of the case as disclosed by the evidence, no matter how weak. As so ably stated in People v. Burns, 88 Cal.App.2d 867, 871 [200 P.2d 134], with ample citation of authority: ‘It is elementary that the court should instruct the jury upon every material question upon which there is any evidence deserving of any consideration whatever. [Citations.] The fact that the evidence may not be of a character to inspire belief *646 does not authorize the refusal of an instruction based thereon. [Citations.] That is a question within the exclusive province of the jury. However incredible the testimony of a defendant may be he is entitled to an instruction based upon the hypothesis that it is entirely true. [Citations.]’ (Italics ours.) This language was repeated in People v. Miller, 57 Cal.2d 821 829 [22 Cal.Rptr. 465, 372 P.2d 2977]. To the same effect, see People v. Carnine, 41 Cal.2d 384, 389-390 [260 P.2d 166]; Daniels v. City & County of San Francisco, 40 Cal.2d 614, 623 [255 P.2d 7855]; Bonebrake v. McCormick, 35 Cal.2d 16, 19 [215 P.2d 7288]; Selinsky v. Olsen, 38 Cal.2d 102, 103 [237 P.2d 645 5].

(3) Thirdly, the trial judge is bound to keep in mind the fact that a justifiable homicide connotes only the use of force which is necessary, or which reasonably appears to be necessary, to resist the other party's misconduct; that use of excessive force destroys the justification, but the question of whether there was such an excess is ordinarily one of fact for the jury to determine. (See People v. Hubbard, 64 Cal.App. 27, 35-36 [220 P. 315]; Fricke on California Criminal Law (7th ed.) pp. 170-171; 26 Am.Jur. § 102, p. 227; § 123, p. 239; 40 C.J.S. § 98, p. 959; § 101, p. 961; § 110, p. 977.)

Appellant's contention is that he was engaged in pre-

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(Cite as: 214 Cal.App.2d 641)

venting Harris from committing a robbery—the taking from defendant's person and withholding money belonging to him, doing so by the exercise of force and fear. Upon the facts entering into this question counsel are not at variance. Both sides accept as true the following facts, most of which are found only in defendant's testimony. Harris was a quarrelsome trouble maker, known generally to be such, and known to defendant to have that reputation. In the night of January 15, 1961, at about 3:30 to 4 a.m., the two men, Harris and Young, arrived at the Hilltop Cafe on South Broadway in Los Angeles. They sat side by side at the counter, Young ordered coffee and Harris asked him to buy some for him; this Young did. When it was served he found he did not have enough silver to pay for it and went into his pocket and brought out all the money he had; it amounted to \$95, he having been paid that day. He took a ten dollar bill in his right hand and at that moment Harris without warning snatched the rest of the money from appellant's left hand. He told Harris to give it back "don't play. I have to have my money." Harris said he would not do so and pulled out his pocket knife which had a blade from 1 7/8 to 3 inches long, which *647 was open. He said, "if you attempt to take this money back, I'll cut your throat and your head will roll on the floor," or something like that. Young had no knife and testified that he was in fear for his life and he looked for something with which to protect himself. Harris said, "if you attempt to take this money back, I'll cut your throat and your head will roll on the floor." Defendant asked for his money again. "In fact I pleaded with him," but Harris said he was not going to give it to defendant and did not care how much he pleaded. The cook, hearing the noise, arrived and told them to "take it outside." Defendant told him, "this man has my money. He took it from me just now," and asked the cook to call the police. Harris was slowly walking toward the door and defendant attempted to hold him. Looking for some protection he picked up a butter knife, discarded it as worthless, saw a sandwich knife on the bread board behind the counter, leaned over the counter and picked it up. It was about 16 to 18 inches in length. Thereupon each of the two men adopted the strategy of holding the arm of the other in which he had the knife. In this posture they worked their way outside the front door where the controversy was resumed. Though this is not the end of the story, it affords bases for testing appellant's claim that he was engaged (initially at least) in preventing Harris from robbing him, i.e., preventing the commission of a felony.

(4) Though there are a few cases in this jurisdiction which hold that a robbery is complete after a slight asportation of the loot even though it is not removed from the presence of the victim (*People v. Clark*, 70 Cal.App.2d 132, 133 [160 P.2d 553]; *People v. Beal*, 3 Cal.App.2d 251 [39 P.2d 504]; *People v. James*, 20 Cal.App.2d 88, 90 [66 P.2d 461]; *People v. Wellman*, 141 Cal.App.2d 101, 104 [296 P.2d 82]), and they are doubtless correct upon their own facts, the general rule is well established that the attempted escape of the robber with or without the loot is an integral part of a robbery and falls in the category of *res gestae*. *People v. Boss*, 210 Cal. 245, 250 [290 P. 881], expounds the rule as follows: "It is a sound principle of law which inheres in common reason that where two or more persons engage in a conspiracy to commit robbery and an officer or citizen is murdered while in immediate pursuit of one of their number who is fleeing from the scene of the crime with the fruits thereof in his possession, or in the possession of a co-conspirator, the crime is not complete in the purview of the law, inasmuch as said conspirator have *648 not won their way even momentarily to a place of temporary safety and the possession of the plunder is nothing more than a scrambling possession. In such a case the continuation of the use of arms which was necessary to aid the felon in reducing the property to possession is necessary to protect him in its possession and in making good his escape. Robbery, unlike burglary, is not confined to a fixed *locus*, but is frequently spread over considerable distance and varying periods of time. The escape of the robbers with the loot, by means of arms, necessarily is as important to the execution of the plan as gaining possession of the property. Without revolvers to terrify, or, if occasion requires, to kill any person who attempts to apprehend them at the time of or immediately upon gaining possession of said property, their plan would be childlike. The defense of felonious possession which is challenged immediately upon the forcible taking is a part of the plan of robbery, or as the books express it, it is *res gestae* of the crime." *People v. Kendrick*, 56 Cal.2d 71, 90 [14 Cal.Rptr. 13, 363 P.2d 13], also applies the *res gestae* concept. *People v. Rye*, 33 Cal.2d 688, 693 [203 P.2d 748], *People v. Chavez*, 37 Cal.2d 656, 669-670 [234 P.2d 632], *People v. Delaney*, 185 Cal.App.2d 261, 264-265 [8 Cal.Rptr. 170], announce and apply the test of whether escape or avoidance of discovery constitutes a part of "one continuous integrated attempt to successfully escape." In *People v. Phillips*, 201 Cal.App.2d 383, 384-385 [19 Cal.Rptr. 839], *People v. Perhab*, 92 Cal.App.2d 430, 432-433, 436,

214 Cal.App.2d 641, 29 Cal.Rptr. 595
(Cite as: 214 Cal.App.2d 641)

438 [206 P.2d 1133], *MacGruer v. Fidelity & Casualty Co.*, 89 Cal.App. 227, 237-238 [264 P. 501], a robbery conviction was affirmed although the sole force and fear employed by the robber was used in an effort to escape; it was held that that was an integral part of the robbery and enough to make the penal statute applicable.

(5) In this case defendant's money was snatched from his hand so quickly that no particular force was required and no fear engendered upon the instant, but mere demand for return of the money brought forth the opened knife and the threat to cut defendant's head off and he was in fear for his life; "I was always afraid of him." In these circumstances the California cases make it plain that the victim has a right to use reasonable force to recover his money and, if actually or apparently reasonably necessary, to kill the robber in so doing. But when the point of reasonable force is passed, justification ceases (authorities, *supra*).

The "snatching" cases are not opposed to this view. *649 Exemplified by *People v. Church*, 116 Cal. 300 [48 P. 125], *Routt v. State*, 61 Ark. 594 [34 S.W. 262], *Lear v. State*, 39 Ariz. 313 [6 P.2d 426], and *McClendon v. State* (Okla. Crim.) 319 P.2d 333, they differentiate between mere larceny and forceful taking which constitutes robbery. The *Church* case, *supra*, says: "Conceding defendant took Smith's watch and chain, or either the watch or chain, still, under the evidence we have set out, it is a close question whether such taking constituted robbery or grand larceny. That question was dependent upon the absence or presence of the use of force in the taking; and the use or nonuse of force by defendant was a question of fact essential for the jury to determine in fixing the crime of which the defendant should be convicted. Grabbing or snatching property from the hand has often been held to be grand larceny, and not robbery. (See *Routt v. State*, 61 Ark. 594 [34 S.W. 262], and cases there cited.)" (P. 302.) But the rule is otherwise where the snatching immediately results in force and fear exercised to prevent recapture by the owner. 46 Am.Jur., § 21, p. 149: "The authorities are agreed that a sudden taking or snatching may be accompanied by sufficient force to constitute robbery. Thus, if a struggle immediately ensues to keep possession of the property and the thief overcomes the resistance, or the article snatched is so attached to the owner's person as to afford resistance or injure the possessor in the taking, the violence is sufficient to constitute the act a robbery."

See also, 77 C.J.S., § 17, p. 460; *People v. Jefferson*, 31 Cal.App.2d 562, 567 [88 P.2d 238].

Upon the foregoing evidence defendant (if believed by the jury) had established the basis for a justifiable homicide provided he did not indulge in more force than necessary to recapture his money.

From this point the testimony diverges widely. The prosecution witnesses say, in substance, that the fight was resumed immediately outside the cafe, with defendant slashing almost continuously at Harris; that the latter backed away around the corner and out of sight; that the two men came into view again and started across the street in a diagonal direction from the cafe; that Harris, who was bleeding freely and leaving a trail of blood from cuts already received, one of them across his face, was running with defendant behind or alongside of him slashing at him with the long knife; that Harris fell at the curb and while he was lying in the gutter defendant stood over him and plunged the knife into his chest with a *650 blow that went through three ribs, the rib cage and out the back, the blow that caused death. Defendant's version, on the other hand, was that he and Harris were holding each other during most of the fight; that Harris fell only to his knee when he reached the curb across the street; that he rose and threw himself upon the knife and thus inflicted the mortal wound upon himself. Defendant was unable to give a reasonable account of the other eight wounds that the coroner's autopsy surgeon found upon the body, one of which went entirely through the flesh of the arm.

(6) It is difficult to envisage the jury finding that defendant did not use excessive and savage force to do away with Harris, but the factual conflict over who inflicted the fatal wound and how it was done necessitates a holding that the question of excessive force was one of fact for the jury, and failure to submit it (upon the judge's own motion, if necessary), when coupled with the refusal of requested instructions upon justifiable homicide, resulted in a miscarriage of justice, a denial of an essentially fair trial.

In the circumstances the judgment must be and it hereby is reversed.

Fox, P. J., and Herndon, J., concurred.
Respondent's petition for a hearing by the Supreme Court was denied May 22, 1963. Schauer, J., and

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McComb, J., were of the opinion that the petition
should be granted.

Cal.App.2.Dist.
People v. Young
214 Cal.App.2d 641, 29 Cal.Rptr. 595

END OF DOCUMENT

BILL NUMBER: AB 2250 CHAPTERED 10/11/93
 BILL TEXT

CHAPTER 1230
 FILED WITH SECRETARY OF STATE OCTOBER 11, 1993
 APPROVED BY GOVERNOR OCTOBER 11, 1993
 PASSED THE SENATE SEPTEMBER 10, 1993
 PASSED THE ASSEMBLY SEPTEMBER 10, 1993
 AMENDED IN SENATE SEPTEMBER 8, 1993
 AMENDED IN SENATE AUGUST 17, 1993
 AMENDED IN SENATE JULY 16, 1993
 AMENDED IN ASSEMBLY MAY 11, 1993

INTRODUCED BY Assembly Members Speier and Collins

MARCH 5, 1993

An act to amend Sections 13700 and 13730 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2250, Speier. Domestic violence.

Existing law requires every law enforcement agency to develop, adopt, and implement written policies and standards for officers' response to domestic violence calls, as specified, maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, as specified, and develop a system for recording all domestic violence-related calls for assistance made to the Department of Justice. Existing law also requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code, as specified.

This bill would require that domestic violence-related calls for assistance, for the purposes of these provisions, be supported with the written incident report form developed under the above provisions, identifying the domestic violence incident.

Existing law defines "domestic violence" for this purpose as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

This bill would redefine "domestic violence" for this purpose, as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, specified cohabitant, or former cohabitant in the case of adults, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship, thereby imposing a state-mandated local program by expanding the scope of the duties of local law enforcement with regard to recording and providing written incident reports on domestic violence-related calls.

This bill would incorporate additional changes in Section 13700 of the Penal Code proposed by AB 224, to be operative only if AB 224 and this bill are both chaptered and become effective January 1, 1994, and this bill is chaptered last.

The California Constitution requires the state to reimburse

local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, or any peace officer of the California State University Police Department, as defined in subdivision (d) of Section 830.2.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 1.5. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision,

"cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a housing authority patrol officer, as defined in subdivision (d) of Section 830.31.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 2. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 13700 of the Penal Code proposed by both this bill and AB 224. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 13700 of the Penal Code, and (3) this bill is enacted after AB 224, in which case Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



BILL ANALYSIS

AB 2250

Speier (D) & Collins (R)

9/8/93

21

28.8

75-0, p. 2468, 6/9/93
(Passed Assembly on Consent)

SUBJECT: Domestic violence

SOURCE: Department of Justice

DIGEST: This bill would clarify the definition of domestic violence for the purpose of law enforcement response duties in domestic violence cases.

This bill would standardize the method for reporting the incidents of domestic violence.

Senate Floor Amendments of 9/8/93 redefine "domestic violence" and define "cohabitant".

ANALYSIS: Existing law requires each law enforcement agency to submit to the Attorney General monthly data on the total number of domestic violence-related calls received and the number of such cases involving weapons. The data is made available to the public. Every law enforcement agency is required to develop, adopt and implement written policies and standards for officers' response to domestic violence calls, maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, and develop a system for recording all domestic violence-related calls for assistance made to the Department of Justice. Each agency is required to develop an incident report form that includes a domestic violence identification code.

This bill would require domestic violence-related calls for assistance to be supported with a written incident report, as described, identifying the domestic violence incident.

Existing law defines "domestic violence" as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

This bill would redefine "domestic violence" for purposes of law enforcement response to mean abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

The bill defines "cohabitant" as two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

The purpose of this bill is to provide uniformity to the reporting by law enforcement agencies of domestic violence.

This bill is double-joined to AB 224 (Speier) which also deals with domestic violence.

Proponents of this bill claim the the definition of domestic violence in Section 13700 of the Penal Code is not interpreted uniformly by the law enforcement agencies reporting data to Department of Justice. The word "cohabitant" presents the most serious problem, because the statute does not define what types of relationships are to be included in this category. Consequently, some agencies report only spousal, dating or engagement relationships with the opposite sex. Other agencies not only report these relationships, but also include relationships between blood relatives, in-laws, and homosexuals.

Proponents of this bill suggest that the law enforcement agencies need the definition clarified so that they submit standardized and comparable statistical data to the Department of Justice.

This bill would define "domestic partner" to mean a person with whom the suspect is having, or has had, a consensual sexual relationship and with whom the suspect lives, or has lived.

FISCAL EFFECT: Appropriation: No Fiscal Committee: Yes Local: Yes

SUPPORT: (Verified 9/9/93)

Department of Justice
San Bernardino County Sheriff's Department

ARGUMENTS IN SUPPORT: The Law Enforcement Information Center at the

□

CONTINUED

AB 2250
Page 3

Department of Justice has annual summary statistical data which shows the inconsistent reporting of domestic violence data by law enforcement agencies. According to the Attorney General, the existing law allows inconsistent statistical reporting and over-reporting of the data.

The Attorney General states that local law enforcement agencies are interpreting the domestic violence statute codes differently. This results in inconsistent and inaccurate data to describe the extent of domestic violence activity in California. This bill would provide a clear and concise definition of domestic violence and a standardized method for reporting the incidents of domestic violence. This information would then be a valuable tool for use by the criminal justice agencies, the Governor, the Attorney General, the Legislature, researchers and domestic violence organizations.

RJG:lm 9/10/93 Senate Floor Analyses

CONTINUED



CRIMINAL STATISTICS REPORTING REQUIREMENTS

California Department of Justice
Bill Lockyer, Attorney General
Division of California Justice Information Services
Criminal Justice Statistics Center

Attorney General on the Internet • <http://caag.state.ca.us>

Revised September 2002

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INTRODUCTION

The Criminal Justice Statistics Center (CJSC) collects, analyzes, and develops statistical reports and information which provide valid measures of crime and the criminal justice process in California, as required by the Penal Code Sections outlined in this publication, *DOJ's Data Collection and Reporting Responsibility*. The goal of CJSC is to provide accurate, complete, and timely criminal statistical information to the public, local government, criminal justice administrators and planners, the legislature, the Attorney General, the Governor, state agencies, federal agencies, and criminal justice researchers through a variety of publications and services. To provide these services and publications, the CJSC collects and compiles data from more than 1,000 city, county, and state criminal justice agencies in California.

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their requirements to report to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data are collected (introduction), which agencies are required to report the data (who), the statutory code section(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

For any additional information or clarification, please write or call our Statistical Data Center. They can be reached by telephone, FAX, or e-mail:

California Department of Justice
Division of California Justice Information Services
Criminal Justice Statistics Center
Statistical Data Center
4949 Broadway, Room E-231
Sacramento, CA 95820

Telephone: (916) 227-3564
Fax: (916) 227-0427
E-mail: cjsc@doj.ca.gov
Internet: <http://caag.state.ca.us/cjsc>

DEPARTMENT OF JUSTICE'S DATA COLLECTION AND REPORTING RESPONSIBILITY

PC 13010

It shall be the duty of the department:

- (a) To collect data necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source;
- (b) To prepare and distribute to all such persons and agencies, cards or other forms used in reporting data to the department. Such cards or forms may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics;
- (c) To recommend the form and content of records which must be kept by such persons and agencies in order to insure the correct reporting of data to the department;
- (d) To instruct such persons and agencies in the installation, maintenance, and use of such records and in the reporting of data therefrom to the department;
- (e) To process, tabulate, analyze and interpret the data collected from such persons and agencies;
- (f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state;
- (g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at such other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment; and
- (h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

PC 13010.5

The department shall collect data pertaining to the juvenile justice system for statistical purposes. This information shall serve to assist the department in complying with the reporting requirement of subdivisions (c) and (d) of Section 13012, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

PC 13012

The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

- (a) The amount and the types of offenses known to the public authorities.

(b) The personal and social characteristics of criminals and delinquents.

(c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.

(d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

(e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

PC 13012.5

(a) The annual report published by the department under Section 13010 shall, in regard to the contents required by subdivision (d) of Section 13012, include the following statewide information:

(1) The annual number of fitness hearings held in the juvenile courts under Section 707 of the Welfare and Institutions Code, and the outcomes of those hearings including orders to remand to adult criminal court, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are the subject of those fitness hearings.

(2) The annual number of minors whose cases are filed directly in adult criminal court under Sections 602.5 and 707 of the Welfare and Institutions Code, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are filed directly to the adult criminal court.

(3) The outcomes of cases involving minors who are prosecuted in adult criminal courts, regardless of how adult court jurisdiction was initiated, including whether the minor was acquitted or convicted, or whether the case was dismissed and returned to juvenile court, including sentencing outcomes, cross-referenced with the age, gender, ethnicity, and offense of the minors subject to these court actions.

(b) The department's annual report published under Section 13010 shall include the information described in subdivision (d) of Section 13012, as further delineated by this section, beginning with the report due on July 1, 2003, for the preceding calendar year.

CRIMINAL STATISTICS
REPORTING REQUIREMENTS

ARRESTS

Introduction

Arrest information is reported to the Department of Justice (DOJ) and is maintained in the Monthly Arrest and Citation Register database. This database contains information on felony and misdemeanor level arrests for adults and juveniles. Data elements include name, race/ethnicity, date of birth, sex, date of arrest, offense level, offense type, status of the offense, and law enforcement disposition. This information is used annually in publishing *Crime and Delinquency in California* and the *Criminal Justice Profile* series. Age, sex, race/ethnicity, and offense information is forwarded to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

PC 13021. Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form JUS 750, or electronically.

CRIMES AND CLEARANCES

Introduction

Crimes and clearance information is to be reported to the DOJ to provide statistical data on the offenses of criminal homicide, forcible rape, robbery, assault, burglary, larceny-theft, and motor vehicle theft. The data are to include the number of actual offenses as well as the number of clearances. Supplemental data are also collected on the nature of crime and the value of property stolen and recovered. This information is forwarded to the FBI for publication in *Crime in the United States*. Data are also published annually in *Crime and Delinquency in California* and the *Criminal Justice Profile Series*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 4-927 (Return A) and JUS 729, or electronically.

ARSON

Introduction

Arson data are to be reported to the DOJ to provide information on the type of arson, the number of actual offenses, the number of clearances, and the estimated dollar value of property damaged. These data are published annually in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 1-725, or electronically.

HOMICIDE

Introduction

Homicide data are to be reported to the DOJ to provide information on the number of homicides, the victim/offender relationship, the day and month of the homicide, location, type of weapon used, and precipitating event. Homicide data are published annually in *Homicide in California*, *Crime and Delinquency in California*, and the *Criminal Justice Profile* series. Data are also reported to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13014 (b). Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background.

PC 13022. Each sheriff and chief of police shall annually furnish the Department of Justice, on a form prescribed by the Attorney General, a report of all justifiable homicides committed in his jurisdiction. In cases where both a sheriff and chief of police would be required to report a justifiable homicide under this section, only the chief of police shall report such homicide.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form BCS-15 along with the Return A, or electronically.

LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED

Introduction

Data on peace officers that were killed or assaulted in the line of duty are to be reported to the DOJ to provide information on the type of criminal activity, type of weapon used, type of assignment, time of assault, number with or without personal injury, police assaults cleared, and officers killed by felonious act or by accident or negligence. This information is published annually in *Crime and Delinquency in California* and *Homicide in California*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 1-705 or FBI 4-927 (Return A), or electronically.

DOMESTIC VIOLENCE RELATED CALLS FOR ASSISTANCE

Introduction

Domestic violence information is to be reported to the DOJ to provide monthly summary statistical data on the number of domestic violence-related calls received, number of cases involving weapons, and the type of weapon used during the incident. This information is published annually in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13730 (a). Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision, (c) identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 715, or electronically.

VIOLENT CRIMES COMMITTED AGAINST SENIOR CITIZENS

Introduction

Information regarding violent crimes committed against senior citizens is to be reported to the DOJ to provide summary data on the number of persons 60 years of age or older who were victims of homicide, forcible rape, robbery, and aggravated assault.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

Senate Resolution 64, Chapter 147, 1982, be it resolved by the Senate of the State of California, the Assembly thereof concurring, That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form BCS 727, or electronically.

HATE CRIMES

Introduction

Hate Crime data are to be reported to the DOJ to provide information on the location of crime, type of bias-motivation, victim type (individual/property), number of victims/suspects, and victim's/suspect's race. This information is provided to the FBI for publication in *Crime in the Untied States* and published in *Hate Crime in California*, an annual report to the California Legislature.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local 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 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, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting the agency crime report. In 2002, a manual form will be provided to law enforcement agencies to complete in lieu of the crime reports. Web-based reporting, via the DOJ Intranet, will also be available in the future.

DEATH IN CUSTODY

Introduction

Information on persons who die while in the custody of a local or state law enforcement agency is to be reported to the DOJ to provide descriptive statistical information on the circumstances relating to the death. In addition to an agency's initial report of an inmate death, an annual survey will be conducted to verify the total number of inmate deaths per agency per calendar year.

Who

Sheriff Departments, Police Departments, Probation Departments, and other state and local agencies with peace officer powers.

Why

GC 12525. In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. These writings are public records within the meaning of subdivision (d) of Section 6252 of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), are open to public inspection pursuant to Sections 6253, 6256, 6257, and 6258. Nothing in this section shall permit the disclosure of confidential medical information that may have been submitted to the Attorney General's office in conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

When

Reports are due as needed, within 10 days of the date of death. The annual survey will be conducted the first week in February.

How

Reporting an "in custody" death is accomplished manually by submitting form CJSC 713, along with a copy of an incident report describing the events surrounding the death. Reporting for the annual survey is accomplished manually by submitting form BCIA 8299.

ADULT PROBATION

Introduction

Data regarding adult probation are to be reported to the DOJ to provide a statistical profile of the probation function for superior and lower courts by county, type of placement, reasons for removal from probation, and the number of persons in supervision caseloads. These data are published annually in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished manually by submitting form CJSC 726.

JUVENILE COURT AND PROBATION STATISTICAL SYSTEM

Introduction

Juvenile justice data are to be reported to the DOJ to provide information on the administration of juvenile justice in California. Information is collected on a juvenile's progress through the juvenile justice system from probation intake to final case disposition.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

WI 285. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished electronically, by cartridge, diskette, or via the Internet with the new JCPSS.

CONCEALABLE WEAPONS STATISTICAL SYSTEM

Introduction

Concealable weapons data are to be reported to the DOJ to provide information on race, ethnicity, age, and gender for each individual charged with a felony or a misdemeanor for carrying either a concealed weapon or loaded firearm.

Who

District Attorneys.

Why

PC 12025 (h)(1). The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

PC 12031 (m)(1). The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 4, or electronically, through the Attorney General's LegalNet system or file transfer protocol.

ANTI-REPRODUCTIVE RIGHTS CRIMES

Introduction

Anti-Reproductive Rights Crime data are to be reported to the DOJ to provide information including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13777 (a). ...the Attorney General shall do each of the following:

(1) Collect and analyze information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats. ... The Attorney General shall make this information available to federal, state, and local law enforcement agencies and prosecutors in California.

(2) Direct local law enforcement agencies to report to the Department of Justice, in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive-rights crimes...

(3) On or before July 1, 2003, and every July 1 thereafter, submit a report to the Legislature analyzing the information it obtains pursuant to this section.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting forms BCIA 8371 and 8370. Electronic reporting will be available in 2003.

HATE CRIME PROSECUTION SURVEY

Introduction

Hate crime data are to be reported to the DOJ to provide information regarding criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability.

Who

District Attorneys.

Why

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local 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 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, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

When

Annually – the first week in February.

How

Reporting is accomplished manually by submitting form CJSC 5.

LAW ENFORCEMENT AND CRIMINAL JUSTICE PERSONNEL SURVEYS

Introduction

Agencies are to report to the DOJ the number of full time, sworn, and non-sworn male and female law enforcement personnel employed by law enforcement agencies, District Attorneys, Public Defenders, or Probation Departments. Data are provided to the FBI for publication in *Crime in the United States*. Data are also published annually in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, District Attorneys, Public Defenders, Probation Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.*
- (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.*
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.*

When

Annually – date specified for each agency.

How

Reporting is accomplished manually by submitting form JUS 02.

CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS SURVEY

Introduction

Agencies are to report to the DOJ statewide summary information on the number of non-criminal and criminal (misdemeanor and felony) complaints reported by citizens to law enforcement agencies, and the number of complaints that were sustained. Data are published annually in *Crime and Delinquency in California*.

Who

Sheriff Departments, Police Departments, District Attorneys, Probation Departments, and other state and local agencies with peace officer powers.

Why

PC 13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

When

Annually – the third week of December.

How

Reporting is accomplished manually by submitting form CJSC 724.

APPENDIX

Data Systems	Reporting Agencies						Frequency	Reporting Statute(s)	Publication Statute(s)	Reporting Form	Electronic Reporting
	SD	PD	Other*	District Attorneys	Public Defenders	Probation Dept.					
Arrests	X	X	X				Monthly-10th working day	PC 13010 (g) and PC 13012 (b)	JUS 750	X	
Crimes and Clearance	X	X	X				Monthly-10th working day	PC 13010 (g) and PC 13012 (a)	FBI 4-927, JUS 729	X	
Arson	X	X	X				Monthly-10th working day	PC 13010 (g) and PC 13012 (a)	FBI 1-725	X	
Homicide	X	X	X				Monthly-10th working day	PC 13010 (g) and PC 13014	BCS 15 Return A	X	
Law Enforcement Officers Killed or Assaulted	X	X	X				Monthly-10th working day	PC 13020	FBI 1-705, FBI 4-927	X	
Domestic Violence Related Calls for Assistance	X	X	X				Monthly-10th working day	PC 13730 (a)	CJSC 715	X	
Violent Crimes Committed Against Senior Citizens	X	X	X				Monthly-10th working day	Senate Resolution 64, Chapter 147, 1982	BCS 727	X	
Hate Crimes	X	X	X				Monthly-10th working day	PC 13023	Agency Crime	X	
Death in Custody	X	X	X			X	As needed w/in 10 days	GC 12525	CJSC 713	None	
Adult Probation						X	Monthly-10th working day	PC 13020	CJSC 726	None	
Juvenile Court and Probation Statistical System						X	Monthly-10th working day	PC 13010.5 and PC 13012 (c) & (d)	None	X	
Concealable Weapons Statistical System				X			Monthly-10th working day	PC 12025 (h)(1) and PC 12031 (m)(1)	CJSC 4	X	
Anti-reproductive Rights Crimes	X	X	X				Monthly-10th working day	PC 13777 (a)(2)	BCIA 8371, BCIA 8370	None	
Law Enforcement & Criminal Justice Personnel Surveys	X	X	X		X		Annually Varies by agency	PC 13020	JUS 02	None	
Citizens' Complaints Against Peace Officers Survey	X	X	X		X		Annually December 20	PC 13010 (g) and PC 13012 (e)	CJSC 724	None	
Hate Crime Prosecution Survey				X			Annually February 4	PC 13023	CJSC 5	None	
Death in Custody Survey	X	X	X			X	Annually February 4	GC 12525	BCIA 8299	None	

* State and local agencies with peace officer powers.

DOMESTIC VIOLENCE RELATED CALLS FOR ASSISTANCE

Introduction

Domestic violence information is to be reported to the DOJ to provide monthly summary statistical data on the number of domestic violence-related calls received, number of cases involving weapons, and the type of weapon used during the incident. This information is published annually in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13730 (a). Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision, (c) identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 715, or electronically.

Table 14
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Los Angeles County

County	Total calls		Type of weapon ¹					
	Total	No weapon involved or reported	Weapon involved	Total	Firearm	Knife or cutting instrument	Other dangerous weapon	Personal weapon ²
Total	59,661	16,863	42,798	42,798	637	1,639	5,760	34,762
Sheriff's Department	11,402	2,247	9,155	9,155	196	314	838	7,807
Unincorporated	4,014	627	3,387	3,387	80	114	319	2,874
Agoura Hills	25	5	20	20	0	1	4	15
Artesia	75	20	55	55	3	0	12	40
Avalon	43	21	22	22	1	0	2	19
Bellflower	513	221	292	292	9	8	16	259
Bradbury	4	0	4	4	0	1	0	3
Calabasas	34	1	33	33	0	0	2	31
Carson	396	61	335	335	10	11	22	292
Cerritos	118	41	77	77	2	4	6	65
Commerce	52	5	47	47	1	1	2	43
Compton	670	68	602	602	19	27	49	507
Cudahy	88	4	84	84	5	5	11	63
Diamond Bar	102	19	83	83	5	2	3	73
Duarte	95	44	51	51	1	3	5	42
Hidden Hills	0	0	0	0	0	0	0	0
Industry	48	8	40	40	0	3	2	35
La Canada-Flintridge	16	5	11	11	0	1	0	10
La Habra Heights	8	1	7	7	0	0	2	5
La Mirada	69	6	63	63	0	2	2	59
La Puente	235	68	167	167	2	1	16	148
Lakewood	389	176	213	213	4	11	17	181
Lancaster	780	70	710	710	10	25	80	595
Lawndale	120	25	95	95	1	5	23	66
Lomita	80	20	60	60	3	2	16	39

(continued)

Table 14 - continued
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Los Angeles County

County	Total calls			Type of weapon ¹				
	Total	No weapon involved or reported	Weapon involved	Total	Firearm	Knife or cutting instrument	Other dangerous weapon	Personal weapon ²
Lynwood	313	26	287	287	5	13	32	237
Malibu	20	4	16	16	2	0	1	13
Norwalk	409	27	382	382	2	11	19	350
Palmdale	720	102	618	618	7	21	46	544
Paramount	450	187	263	263	5	10	14	234
Pico Rivera	227	25	202	202	3	7	13	179
Rancho Palos Verdes	35	13	22	22	1	1	7	13
Rolling Hills	2	1	1	1	0	0	0	1
Rolling Hills Estates	8	4	4	4	0	0	0	4
Rosemead	190	65	125	125	0	4	13	108
San Dimas	93	21	72	72	2	0	2	68
Santa Clarita	539	142	397	397	10	7	33	347
South El Monte	134	30	104	104	1	5	13	85
Temple City	123	58	65	65	1	3	13	48
Walnut	37	10	27	27	0	1	2	24
West Hollywood	121	16	105	105	0	4	18	83
Westlake Village	7	0	7	7	1	0	1	5
Alhambra	125	109	16	16	1	2	6	7
Arcadia	121	56	65	65	1	2	4	58
Azusa	209	68	141	141	5	3	13	120
Baldwin Park	248	42	206	206	0	8	19	179
Bell	107	0	107	107	2	1	56	48
Bell Gardens	101	24	77	77	0	1	1	75
Beverly Hills	160	152	8	8	0	0	5	3
Burbank	409	99	310	310	3	8	33	266
Claremont	8	0	8	8	0	0	2	6
Covina	262	221	41	41	1	4	4	32

(continued)

Table 14 - continued
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Los Angeles County

County	Total calls		Type of weapon ¹				
	Total	No weapon involved or reported	Weapon involved	Firearm	Knife or cutting instrument	Other dangerous weapon	Personal weapon ²
Culver City	67	0	67	1	0	3	63
Downey	477	428	49	1	10	11	27
El Monte	560	414	146	3	13	45	85
El Segundo	45	41	4	0	0	2	2
Gardena	303	7	296	2	7	49	238
Glendale	610	533	77	1	22	14	40
Glendora	118	4	114	2	2	4	106
Hawaiian Gardens	98	48	50	3	4	5	38
Hawthorne	657	29	628	10	37	49	532
Hermosa Beach	41	25	16	2	1	1	12
Huntington Park	189	0	189	0	4	14	171
Inglewood	398	94	304	1	6	62	235
Irwindale	6	0	6	0	0	0	6
La Verne	84	0	84	0	0	4	80
Long Beach	2,379	34	2,345	20	57	239	2,029
Los Angeles	34,760	9,802	24,958	356	1,045	3,927	19,630
Manhattan Beach	46	2	44	0	0	0	44
Maywood	137	123	14	2	5	1	6
Monrovia	90	3	87	1	2	13	71
Montebello	149	0	149	0	0	16	133
Monterey Park	96	0	96	0	4	2	90
Palos Verdes Estates	12	10	2	0	0	0	2
Pasadena	537	89	448	5	15	39	389
Pomona	1,514	669	845	2	14	31	798
Redondo Beach	168	4	164	0	5	16	143

(continued)

Table 14 - continued
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Los Angeles County

County	Total calls		Weapon involved	Type of weapon ¹			
	Total	No weapon involved or reported		Firearm	Knife or cutting instrument	Other dangerous weapon	Personal weapon ²
San Fernando	188	70	118	1	4	14	99
San Gabriel	87	70	17	1	5	10	1
San Marino	1	0	1	0	0	0	1
Santa Monica	265	19	246	1	9	115	121
Sierra Madre	29	26	3	0	0	0	3
Signal Hill	60	4	56	1	2	15	38
South Gate	255	0	255	1	4	7	243
South Pasadena	27	17	10	0	0	2	8
Torrance	257	35	222	2	4	21	195
Vernon	5	1	4	0	0	0	4
West Covina	348	278	70	4	2	17	47
Whittier	1,408	955	453	5	12	26	410
Santa Fe Springs	167	84	83	3	0	5	75
Whittier	1,241	871	370	2	12	21	335
Lanterman State Hospital	0	0	0	0	0	0	0
UC Los Angeles	0	0	0	0	0	0	0
CSU Dominguez Hills	3	0	3	0	0	1	2
CSU Long Beach	1	1	0	0	0	0	0
CSU Los Angeles	1	0	1	0	0	0	1
CSU Northridge	0	0	0	0	0	0	0
Cal Poly - Pomona	4	4	0	0	0	0	0
El Camino College	2	1	1	0	0	0	1
Long Beach City College	6	3	3	0	0	0	3
Pasadena City College	0	0	0	0	0	0	0
LA Transit Services Bureau	15	2	13	0	1	3	9
Total				118			

(continued)

Table 14 - continued
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Los Angeles County

County	Total calls		Type of weapon ¹					
	Total	No weapon involved or reported	Weapon involved	Total	Firearm	Knife or cutting instrument	Other dangerous weapon	Personal weapon ²
LA County (MTA)	0	0	0	0	0	0	0	0
Union Pacific Railroad	0	0	0	0	0	0	0	0
CA Highway Patrol	6	0	6	6	0	0	1	5

¹Penal Code Section 13730 does not require that the type of weapon involved in a domestic violence-related call be reported.

²Hands, feet, etc.

Table 14
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Statewide

County	Total calls		Type of weapon ¹				
	Total	No weapon involved or reported	Weapon involved	Firearm	Knife or cutting instrument	Other dangerous weapon	Personal weapon ²
Total	198,031	61,665	136,366	1,325	4,213	15,557	115,271
Alameda	5,743	2,929	2,814	31	73	238	2,472
Alpine	5	0	5	0	0	0	5
Amador	178	11	167	4	3	8	152
Butte	1,105	533	572	9	11	43	509
Calaveras	167	20	147	1	2	3	141
Colusa	132	34	98	1	5	7	85
Contra Costa	4,559	1,075	3,484	12	105	243	3,124
Del Norte	343	208	135	0	6	17	112
El Dorado	728	393	335	2	6	31	296
Fresno	8,735	2,036	6,699	39	149	803	5,708
Glenn	414	149	265	1	9	3	252
Humboldt	563	165	398	6	5	33	354
Imperial	615	164	451	4	9	23	415
Inyo	101	7	94	1	7	11	75
Kern	2,675	74	2,601	22	71	176	2,332
Kings	520	294	226	0	8	19	199
Lake	368	149	219	2	5	17	195
Lassen	91	19	72	1	4	11	56
Los Angeles	59,661	16,863	42,798	637	1,639	5,760	34,762
Madera	1,322	1,049	273	7	14	33	219
Marin	728	353	375	3	5	25	342
Mariposa	56	20	36	0	3	5	28
Mendocino	615	289	326	1	6	30	289
Merced	1,545	308	1,237	5	34	152	1,046
Modoc	43	4	39	0	1	3	35
Mono	129	79	50	0	2	5	43
Monterey	1,561	378	1,183	6	33	127	1,017
Napa	438	266	172	8	5	34	125
Nevada	223	92	131	4	3	7	117
Orange	11,896	6,463	5,433	31	127	386	4,889

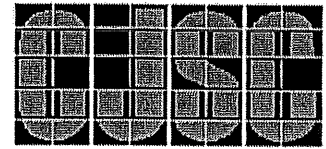
(continued)

Table 14 - continued
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE, 2001
 Type of Call and Weapon
 Statewide

County	Total calls		Type of weapon ¹					Personal weapon ²
	Total	No weapon involved or reported	Weapon involved	Total	Firearm	Knife or cutting instrument	Other dangerous weapon	
Placer	774	325	449	449	0	9	27	413
Plumas	117	56	61	61	0	0	6	55
Riverside	7,976	1,147	6,829	6,829	55	232	531	6,011
Sacramento	8,432	5,126	3,306	3,306	32	147	393	2,734
San Benito	243	4	239	239	2	2	11	224
San Bernardino	8,490	778	7,712	7,712	48	218	759	6,687
San Diego	20,793	3,866	16,927	16,927	107	561	2,786	13,473
San Francisco	5,410	2,395	3,015	3,015	25	49	109	2,832
San Joaquin	4,745	452	4,293	4,293	69	124	495	3,605
San Luis Obispo	887	340	547	547	9	13	58	467
San Mateo	2,874	1,339	1,535	1,535	23	37	92	1,383
Santa Barbara	1,726	142	1,584	1,584	4	32	338	1,210
Santa Clara	6,400	1,541	4,859	4,859	34	120	468	4,237
Santa Cruz	1,487	144	1,343	1,343	20	53	198	1,072
Shasta	1,031	111	920	920	7	20	47	846
Sierra	14	2	12	12	0	0	0	12
Siskiyou	223	24	199	199	0	1	3	195
Solano	2,464	661	1,803	1,803	4	45	135	1,619
Sonoma	2,319	114	2,205	2,205	3	35	121	2,046
Stanislaus	3,685	1,695	1,990	1,990	14	41	191	1,744
Sutter	477	145	332	332	2	4	35	291
Tehama	574	197	377	377	2	5	39	331
Trinity	66	0	66	66	2	1	3	60
Tulare	2,486	1,071	1,415	1,415	13	66	189	1,147
Tuolumne	221	135	86	86	0	2	9	75
Ventura	7,662	5,143	2,519	2,519	8	30	189	2,292
Yolo	707	223	484	484	3	11	35	435
Yuba	489	65	424	424	1	5	37	381

¹Penal Code Section 13730 does not require that the type of weapon involved in a domestic violence-related call be reported.

²Hands, feet, etc.



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CJSC Databases

(A brief description of 16 databases)

ADULT FELONY ARREST DISPOSITIONS

The Offender-Based Transaction Statistics (OBTS) report file provides statistical data on adult felony arrests with a disposition. The data elements on this file include: personal identifiers; date of event; arresting agency and booking number; most serious charged offense; most serious disposition; disposition offense; and sentence. OBTS data are published in *Crime and Delinquency in California* and *Homicide in California*. The database contains information from 1974 to the present.

ADULT PROBATION

The Adult Probation Information database provides gross counts that give a statistical profile of the probation function for superior and lower courts by county, type of placement, reasons for removal from probation, and the number of persons in supervision caseloads. Adult probation data are published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series. The file contains information from 1972 to the present.

ANTI-REPRODUCTIVE RIGHTS CRIMES

The Anti-Reproductive Rights Crimes (ARRC) database provides information relating to anti-reproductive rights crimes, including the threatened commission of these crimes and persons suspected of making these threats. Data elements include the offenses (violent/non-violent), type of location, weapon type, victim type (individual/property) number of suspects, and property damage. The ARRC database contains information from 2003 to the present.

ARRESTS

The Monthly Arrest and Citation Register (MACR) database provides information on felony- and misdemeanor-level arrests for adults and juveniles. The following data elements are included in this file: name, race/ethnicity, date of birth, sex, date of arrest, offense level, offense type, status of the offense, and law enforcement disposition. About 2,000,000 arrests are reported and processed annually. MACR data are published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series. Age, sex, race/ethnicity, and offense information from MACR is forwarded to the FBI for publication in *Crime in the United States*. The MACR database contains information from 1972 to the present.

ARSON

The Arson Offenses database provides statistical data on arson offenses. The database includes the type of arson (i.e., structural, mobile, or other), the number of actual offenses, the number of clearances, and the estimated dollar value of property damaged. Arson data are published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series. The database

contains information from 1979 to the present.

CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS

The Citizens' Complaints Against Peace Officers (CCAPO) database provides annual statewide summary information on the number of non-criminal, criminal (misdemeanor and felony) complaints reported by citizens to law enforcement agencies and the number of complaints that were sustained. Data are published annually in *Crime and Delinquency in California*. The CCAPO file contains information from 1981 to the present.

CONCEALABLE WEAPONS STATISTICAL SYSTEM

The Concealable Weapons Statistical System (CWSS) provides statistical data on individuals charged with committing a crime under California Penal Code sections 12025 and 12031. The following data elements are provided by the state District Attorneys and are included in this file: the offender's race/ethnicity, gender, and date of birth; the date of arrest; county; reference number; weapons offense; level of offense (felony or misdemeanor); and, if applicable, up to three additional charges. CWSS, developed in 2000, will provide data to be published annually in *Concealable Firearms Charges in California*. The CWSS database contains information from 2000 to the present.

CRIMES

The Crimes and Clearances database provides statistical data on the offenses of criminal homicide, forcible rape, robbery, assault, burglary, larceny-theft, and motor vehicle theft. The data include the number of actual offenses and the number of clearances. Supplemental data are also collected on the nature of crime and the value of property stolen and recovered. The data are forwarded to the FBI's Uniform Crime Reporting (UCR) program for publication in *Crime in the United States*. Data are also published in the *Crime and Delinquency in California* publication and the *Criminal Justice Profile* series. The database contains information from 1952 to the present.

DEATH IN CUSTODY

The Death in Custody database contains descriptive information on persons who died while in the custody of a local or state law enforcement agency and the circumstances relating to the death. Approximately 400 deaths in custody are reported and processed each year. The Death in Custody database contains information from 1977 to the present.

DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE

The Domestic Violence-Related Calls for Assistance (DV) database provides monthly summary statistical data on the total number of domestic violence-related calls received by law enforcement, number of such cases involving weapons, and the type of weapon used during the incident. Approximately 8,500 reports are received and processed annually. DV data are published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series. The DV database contains information from July 1986 to the present.

HATE CRIMES

The Hate Crime database contains information on the number of hate crime events reported to California's law enforcement agencies. Data elements include type of location, type of bias-motivation, victim type (individual/property), number of suspects, and suspect's race. Hate crime data are provided to the FBI for publication in *Crime in the United States* and published in *Hate Crime in California*, an annual report to the California Legislature which includes results from CJSC's annual survey of California's district attorneys regarding prosecutorial responses to hate crime cases. The Hate Crime database contains information from 1995 to the present.

HOMICIDES

The Homicide database contains data on the number of criminal homicides known to police agencies in California. The database includes victim/offender relationship, day and month of the homicide, location, type of weapon used, and precipitating event. On the average, CJSC receives and processes nearly 4,000 homicide reports each year. Homicide data are published in *Homicide in California*, *Crime and Delinquency in California*, and the *Criminal Justice Profile* series. Data are also reported to the FBI for publication in *Crime in the United States*. The database contains information from 1974 to the present.

JUVENILE COURT AND PROBATION

The Juvenile Court and Probation Statistical System (JCPSS) database is designed to collect, compile, and report statistical data on the administration of juvenile justice in California. It also provides information on a juvenile's progress through the juvenile justice system from probation intake to final case disposition. Data collection commenced in January 1997 with 22 counties submitting reports.

LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED

The Law Enforcement Officers Killed or Assaulted (LEOKA) database contains data on peace officers that were killed or assaulted in the line of duty. The data provides information on the type of criminal activity, type of weapon used, type of assignment, time of assault, number with or without personal injury, police assaults cleared, and officers killed by felonious act or by accident or negligence. Data are published in *Crime and Delinquency in California* and *Homicide in California*. The database contains information from 1990 to the present.

LAW ENFORCEMENT AND CRIMINAL JUSTICE PERSONNEL

The Law Enforcement Personnel and Criminal Justice Personnel Survey database contains information on the number of full time, sworn and non-sworn male and female law enforcement personnel employed by law enforcement agencies, District Attorneys, Public Defenders, or Probation Departments. Data are provided to the FBI for publication in *Crime in the United States*. Data are also published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series. The database contains information from 1980 to the present.

VIOLENT CRIMES COMMITTED AGAINST SENIOR CITIZENS

The Violent Crimes Committed Against Senior Citizens (VCASC) database provides monthly summary information from law enforcement agencies on the total number of persons 60 years of age or older who were victims of homicide, forcible rape, robbery, and aggravated assault. The database contains information from 1983 to the present.

CJSC's **Special Requests Unit** is the contact point for copies of all CJSC publications, frequently requested criminal statistics, and customized statistical reports.

This is a service CJSC provides to legislative and judicial bodies, government, colleges, other researchers, and the public.

The CJSC Special Requests Unit can assist you by telephone, FAX or E-mail.

Contact them at:

California Department of Justice
Division of California Justice Information Services
Criminal Justice Statistics Center
Special Requests Unit

4949 Broadway, Room E-231, Sacramento, CA 95820

Telephone: (916) 227-3509 / FAX: (916) 227-0427 / E-Mail: CJSC@hdcdojnet.state.ca.us

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CRIMINAL STATISTICS REPORTING REQUIREMENTS

February 2006



California Department of Justice
Bill Lockyer, Attorney General
Division of California Justice Information Services
Bureau of Criminal Information and Analysis
Criminal Justice Statistics Center

CRIMINAL STATISTICS REPORTING REQUIREMENTS

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Attorney General on the Internet → <http://ag.ca.gov>

Revised February 2006

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Appendix

Database Spreadsheet

INTRODUCTION

The Department of Justice (DOJ), Bureau of Criminal Information and Analysis (BCIA), Criminal Justice Statistics Center (CJSC) collects, analyzes, and develops statistical reports and information which provide valid measures of crime and the criminal justice process in California, as required by the Penal Code Sections outlined in this publication, *DOJ's Data Collection and Reporting Responsibility*. The goal of the CJSC is to provide accurate, complete, and timely criminal statistical information to the public, local government, criminal justice administrators and planners, the legislature, the Attorney General, the Governor, state agencies, federal agencies, and criminal justice researchers through a variety of publications and services. To provide these services and publications, the CJSC collects and compiles data from more than 1,000 city, county, and state criminal justice agencies in California.

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their requirements to report to the CJSC. For each reporting requirement there is a brief description of what data are collected (introduction), which agencies are required to report the data (who), the statutory code section(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

For any additional information or clarification, please write or call the Criminal Justice Statistics Center. They can be reached by telephone, FAX, or e-mail:

California Department of Justice
Division of California Justice Information Services
Bureau of Criminal Information and Analysis
Criminal Justice Statistics Center
P.O. Box 903427
Sacramento, CA 94203-4270

Telephone: (916) 227-3546
Fax: (916) 227-0427
E-mail: doj.cjsc@doj.ca.gov
Internet: <http://ag.ca.gov/cjsc>

DEPARTMENT OF JUSTICE'S DATA COLLECTION AND REPORTING RESPONSIBILITY

PC 13010

It shall be the duty of the department:

- (a) To collect data necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source.
- (b) To prepare and distribute to all those persons and agencies, cards, forms, or electronic means used in reporting data to the department. The cards, forms, or electronic means may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics.
- (c) To recommend the form and content of records which must be kept by those persons and agencies in order to insure the correct reporting of data to the department.
- (d) To instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.
- (e) To process, tabulate, analyze and interpret the data collected from those persons and agencies.
- (f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state.
- (g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.
- (h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

PC 13010.5

The department shall collect data pertaining to the juvenile justice system for criminal history and statistical purposes. This information shall serve to assist the department in complying with the reporting requirement of subdivisions (c) and (d) of Section 13012, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency. Any data collected pursuant to this section may include criminal history information which may be used by the department to comply with the requirements of Section 602.5 of the Welfare and Institutions Code.

PC 13012

The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

- (a) The amount and the types of offenses known to the public authorities.
- (b) The personal and social characteristics of criminals and delinquents.
- (c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.
- (d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.
- (e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

PC 13012.5

(a) The annual report published by the department under Section 13010 shall, in regard to the contents required by subdivision (d) of Section 13012, include the following statewide information:

- (1) The annual number of fitness hearings held in the juvenile courts under Section 707 of the Welfare and Institutions Code, and the outcomes of those hearings including orders to remand to adult criminal court, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are the subject of those fitness hearings.
- (2) The annual number of minors whose cases are filed directly in adult criminal court under Sections 602.5 and 707 of the Welfare and Institutions Code, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are filed directly to the adult criminal court.
- (3) The outcomes of cases involving minors who are prosecuted in adult criminal courts, regardless of how adult court jurisdiction was initiated, including whether the minor was acquitted or convicted, or whether the case was dismissed and returned to juvenile court, including sentencing outcomes, cross-referenced with the age, gender, ethnicity, and offense of the minors subject to these court actions.

(b) The department's annual report published under Section 13010 shall include the information described in subdivision (d) of Section 13012, as further delineated by this section, beginning with the report due on July 1, 2003, for the preceding calendar year.

CRIMINAL STATISTICS
REPORTING REQUIREMENTS

ADULT PROBATION

Introduction

Data regarding adult probation are to be reported to the DOJ to provide a statistical profile of the probation function for superior and lower courts by county, type of placement, reasons for removal from probation, and the number of persons in supervision caseloads. These data are published annually in *Crime in California* and the *Criminal Justice Profile* series.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished manually by submitting form BCIA 726.

ANTI-REPRODUCTIVE-RIGHTS CRIMES (ARRC)

Introduction

Anti-Reproductive-Rights Crimes data are to be reported to the DOJ to provide information on crimes that are committed against reproductive health services providers, clients, assistants, or the facilities where these services are provided or at a place of worship because of the church's beliefs regarding reproductive rights. The data include the location of the crime, victim type (individual/property), race/ethnicity, gender of victims and suspects, weapon involved, and property loss or damage. These data are published annually in *Anti-Reproductive-Rights Crimes in California*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13777 (a). The Attorney General shall do each of the following:

(1) Collect and analyze information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats. . . . The Attorney General shall make this information available to federal, state, and local law enforcement agencies and prosecutors in California.

(2) Direct local law enforcement agencies to report to the Department of Justice, in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive-rights crimes. . . .

(3) On or before July 1, 2003, and every July 1 thereafter, submit a report to the Legislature analyzing the information it obtains pursuant to this section.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting forms BCIA 8371 and 8370.

ARRESTS

Introduction

Arrest information is reported to the DOJ and is maintained in the Monthly Arrest and Citation Register database. This database contains information on felony and misdemeanor level arrests for adults and juveniles. Data elements include name, race/ethnicity, date of birth, sex, date of arrest, offense level, offense type, status of the offense, and law enforcement disposition. This information is used annually in publishing *Crime in California*, *Homicide in California*, and the *Criminal Justice Profile* series. Age, sex, race/ethnicity, and offense information is forwarded to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

PC 13021. Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form JUS 750, cartridge, or diskette.

ARSON

Introduction

Arson data are to be reported to the DOJ to provide information on the type of arson, the number of actual offenses, the number of clearances, and the estimated dollar value of property damaged. These data are published annually in *Crime in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form FBI 1-725.

CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS SURVEY

Introduction

Agencies are to report to the DOJ statewide summary information on the number of non-criminal and criminal (misdemeanor and felony) complaints reported by citizens against law enforcement personnel and the number of complaints that were sustained. Data are published annually in *Crime in California*.

Who

Sheriff Departments, Police Departments, District Attorneys, Probation Departments, and other state and local agencies with peace officer powers.

Why

PC 13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

When

Annually – the third week of December.

How

Reporting is accomplished manually by submitting form BCIA 724.

CRIMES AND CLEARANCES

Introduction

Crimes and clearances information is to be reported to the DOJ to provide statistical data on the offenses of criminal homicide, forcible rape, robbery, assault, burglary, larceny-theft, and motor vehicle theft. The data are to include the number of actual offenses as well as the number of clearances. Supplemental data are also collected on the nature of crime and the value of property stolen and recovered. Data are published annually in *Crime in California* and the *Criminal Justice Profile Series*. This information is also forwarded to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form FBI 4-927 (Return A) and JUS 729.

DEATH IN CUSTODY

Introduction

Information on persons who die while in the custody of a local or state law enforcement agency is to be reported to the DOJ to provide descriptive statistical information on the circumstances relating to the death. In addition to an agency's initial report of an inmate death, an annual survey will be conducted to verify the total number of inmate deaths per agency per calendar year.

Who

Sheriff Departments, Police Departments, Probation Departments, and other state and local agencies with peace officer powers.

Why

GC 12525. In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. These writings are public records within the meaning of subdivision (d) of Section 6252 of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), are open to public inspection pursuant to Sections 6253, 6256, 6257, and 6258. Nothing in this section shall permit the disclosure of confidential medical information that may have been submitted to the Attorney General's office in conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

When

Reports are due as needed, within 10 days of the date of death. The annual survey will be conducted the first week in February.

How

Reporting an "in custody" death is accomplished manually by submitting form BCIA 713. Reporting for the annual survey is accomplished manually by submitting form BCIA 8299.

DOMESTIC VIOLENCE -RELATED CALLS FOR ASSISTANCE

Introduction

Domestic violence information is to be reported to the DOJ to provide monthly summary statistical data on the number of domestic violence-related calls received, number of cases involving weapons, and the type of weapon used during the incident. This information is published annually in *Crime in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13730 (a). Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General. . . .

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. The report shall include at least all of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form BCIA 715.

HATE CRIME PROSECUTION SURVEY

Introduction

Hate crime data are to be reported to the DOJ to provide information regarding criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability. These data are published annually in *Hate Crime in California*.

Who

District Attorneys.

Why

PC 13023 (a). Subject to the availability of adequate funding, the Attorney General shall direct local 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. . . .

(b). On or before July 1 of each year, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

When

Annually – the first week in February.

How

Reporting is accomplished manually by submitting form BCIA 5.

HATE CRIMES

Introduction

Hate Crime data are to be reported to the DOJ to provide information on the location of crime, type of bias-motivation, victim type (individual/property), number of victims/suspects, and victim's/suspect's race. This information is published in *Hate Crime in California*, an annual report to the California Legislature, and provided to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13023 (a). Subject to the availability of adequate funding, the Attorney General shall direct local 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. . . .

(b). On or before July 1 of each year, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Hate Crime Analysis, Tracking & Evaluation (HATE) System, or manually by submitting the agency crime report.

HOMICIDE

Introduction

Homicide data are to be reported to the DOJ to provide information on the number of homicides, the victim/offender relationship, the day and month of the homicide, location, type of weapon used, and precipitating event. Homicide data are published annually in *Homicide in California*, *Crime in California*, and the *Criminal Justice Profile* series. Data are also reported to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13014 (b). Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background.

PC 13022. Each sheriff and chief of police shall annually furnish the Department of Justice, in the manner prescribed by the Attorney General, a report of all justifiable homicides committed in his or her jurisdiction. In cases where both a sheriff and chief of police would be required to report a justifiable homicide under this section, only the chief of police shall report the homicide.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form BCIA 15 along with FBI 4-927 (Return A).

JUVENILE COURT AND PROBATION STATISTICAL SYSTEM (JCPSS)

Introduction

Juvenile justice data are to be reported to the DOJ to provide information on the administration of juvenile justice in California. Information is collected on a juvenile's progress through the juvenile justice system from probation intake to final case disposition. These data are published annually in *Juvenile Justice in California*.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

WI 285. All probation officers shall make such periodic reports to the Attorney General at those times and in the manner prescribed by the Attorney General, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished electronically via the Juvenile Court and Probation Statistical System (JCPSS), or by submitting cartridge or diskette.

LAW ENFORCEMENT AND CRIMINAL JUSTICE PERSONNEL SURVEY

Introduction

Agencies are to report to the DOJ the number of full time, sworn, and non-sworn male and female law enforcement personnel employed by law enforcement agencies, District Attorneys, Public Defenders, or Probation Departments. Data are published annually in *Crime in California* and the *Criminal Justice Profile* series. Data are also provided to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, District Attorneys, Public Defenders, Probation Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Annually – date specified for each agency.

How

Reporting is accomplished manually by submitting form JUS 02.

LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED

Introduction

Data on peace officers who were killed or assaulted in the line of duty are to be reported to the DOJ to provide information on the type of criminal activity, type of weapon used, type of assignment, time of assault, number with or without personal injury, police assaults cleared, and officers killed by felonious act or by accident or negligence. This information is published annually in *Homicide in California*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form FBI 1-705 or FBI 4-927 (Return A).

VIOLENT CRIMES COMMITTED AGAINST SENIOR CITIZENS

Introduction

Information regarding violent crimes committed against senior citizens is to be reported to the DOJ to provide summary data on the number of persons 60 years of age or older who were victims of homicide, forcible rape, robbery, and aggravated assault.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

Senate Concurrent Resolution No. 64, Chapter 147, 1982, be it resolved by the Senate of the State of California, the Assembly thereof concurring, that local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older. . . .

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished electronically via the Electronic-Crime and Arrest Reporting System (E-CARS) Plus, or manually by submitting form BCIA 727.

APPENDIX

Database	Reporting Agencies						Reporting Statute(s)	Publication Statute(s)	Reporting Form	Electronic Reporting
	SD	PD	Other*	District Attorneys	Public Defenders	Probation Dept.				
Adult Probation						X	PC 13020	BCIA 726	None	
Anti-Reproductive-Rights Crimes (ARRC)	X	X	X				PC 13777 (a)(1) and (a)(3)	BCIA 8370, BCIA 8371	X	
Arrests	X	X	X				PC 13010 (g) and PC 13012 (b)	JUS 750	X	
Arson	X	X	X				PC 13010 (g) and PC 13012 (a)	FBI 1-725	X	
Citizens' Complaints Against Peace Officers Survey	X	X	X	X		X	PC 13010 (g) and PC 13012 (e)	BCIA 724	None	
Crimes and Clearance	X	X	X				PC 13010 (g) and PC 13012 (a)	FBI 4-927, JUS 729B/C	X	
Death in Custody	X	X	X			X	GC 12525	BCIA 713	None	
Death in Custody Survey	X	X	X			X	GC 12525	BCIA 8299	None	
Domestic Violence-Related Calls for Assistance	X	X	X				PC 13730 (a)	BCIA 715	X	
Hate Crime Prosecution Survey				X			PC 13023	BCIA 5	None	
Hate Crimes	X	X	X				PC 13023	Agency Crime Report	X	
Homicide	X	X	X				PC 13014(b) and PC 13022	BCIA 15, FBI 4-927	X	
Juvenile Court and Probation Statistical System (JCPSS)						X	PC 13010.5 and PC 13012 (c) & (d)	None	X	
Law Enforcement & Criminal Justice Personnel Survey	X	X	X			X	PC 13020	JUS 02	None	
Law Enforcement Officers Killed or Assaulted	X	X	X				PC 13020	FBI 1-705, FBI 4-927	X	
Violent Crimes Committed Against Senior Citizens	X	X	X				Senate Con. Res. 64, Chapter 147, 1982	BCIA 727	X	

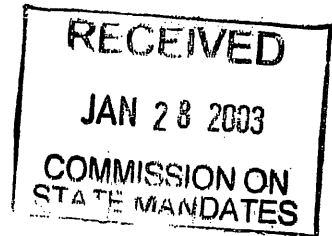
* State and local agencies with peace officer powers.



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January 28, 2003



Paula Higashi, Executive Director
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Commission on State Mandates, Test Claim 02-TC-04
Crime Statistic Reports for the Department of Justice

Dear Ms. Higashi:

The Commission on State Mandates (Commission) requested comment from the Department Of Justice (DOJ) regarding a test claim filed by the City of Newport Beach (City) wherein the City demands reimbursement for costs associated with certain crime statistics that it provides to the DOJ. We offer the following information provided by the DOJ's Criminal Justice Statistics Center to assist the Commission in its review process.

HISTORICAL BACKGROUND

1. The Uniform Crime Reporting Program

The Uniform Crime Reporting (UCR) Program is a city, county and state law enforcement program. The Program provides a nationwide view of crime based on the submission of statistics by law enforcement agencies throughout the country. The crime data are submitted either to a state UCR Program or directly to the national UCR Program which is administered by the Federal Bureau of Investigation (FBI). The International Association of Chiefs of Police (IACP) envisioned the need for statistics on crime in the 1920's. The IACP's Committee on Uniform Crime Records is a voluntary national data collection effort begun in

1930.¹ Crime data are, for the most part, collected on a monthly basis by the UCR Program. The FBI provides report forms, tally sheets, and self-addressed envelopes to agencies who complete the forms and return them directly to the FBI. The information submitted to the UCR Program should be only a portion of the data a law enforcement agency tabulates for its own effective and efficient use.

California, like many other states, has developed a state UCR Program that has streamlined the collection of UCR data and guaranteed consistency and comparability in the data forwarded to the FBI. Further, over the years, the California Legislature has required that the DOJ collect additional crime statistics, beyond those required by the Program.

2. The 1955 Mandate

In 1955, the California Legislature passed laws requiring the state's participation in the UCR Program, and at the same time, authorizing and directing the DOJ to collect, maintain, and analyze criminal statistics beyond the scope of the UCR Program. (Pen. Code §§ 13010 and 13020.) Penal Code section 13010 imposed a duty on DOJ to collect from state and local entities, on forms developed by DOJ, data necessary for the work of the department.² Such forms might "*in addition to other items*, include items of information needed by federal bureau or departments engaged in the development of national and uniform criminal statistics." (Pen. Code § 13010(b).) Penal Code section 13010 also provided that DOJ was to (1) recommend the form and content of records to be maintained by the state and local entities; (2) instruct them in the installation, maintenance and use of such records; (3) process, tabulate, analyze and interpret the data collected; (4) supply data to the FBI and others engaged in the collection of national criminal statistics; (5) present to the Governor an annual report containing the criminal statistics of the preceding calendar year; and (6) present at such other times as the Attorney General may approve reports on special aspects of criminal statistics.

Since 1955, Penal Code section 13020, in turn, imposed a duty upon, *inter alia*, city marshals, chiefs of police, district attorneys, city attorneys, city prosecutors having criminal jurisdiction, probation officers and "every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

¹ California law enforcement has been participating in the program for decades. All states, except Alaska are participants. Obviously, a national UCR Program, which provides invaluable information to federal, state and local law enforcement agencies and lawmakers would have no value without full participation of all stakeholders.

² The original statute referenced "the work of the bureau," meaning the Bureau of Criminal Statistics within the California Department of Justice.

- (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.
- (b) To report statistical data to the department at those time and in the manner that the Attorney General prescribes.
- (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.”

Hence, since 1955, cities have had the obligation to provide the DOJ with criminal statistics required by the UCR Program, as well as, those needed for the annual report to the Governor and other reports on special aspects of criminal statistics.

SPECIFIC PROVISIONS INCLUDED IN THE CITY'S CLAIM

1. Penal Code Section 13012 - Annual Report to the Governor

Chapter 1340, Statutes of 1980

Chapter 1340, stats. of 1980 amended Penal Code § 13012 to add one new reporting requirement – certain information regarding citizens’ complaints against law enforcement. A copy of the current reporting form that DOJ provides to local law enforcement (CJSC 724) is attached hereto as Exhibit A.³

Chapter 803, Statutes of 1995

Statistics relating to juvenile offenders are collected and reported by *county*⁴ probation departments. The program requiring reports of juvenile offender information was cut in 1990, but

³ Except for those situations in which the local entity must submit its own crime report (created and maintained in its normal course of business), the DOJ supplies all crime statistic reporting forms to the local entities free of charge. Further, all DOJ forms may be submitted either electronically (on disk) or by hard copy, at the discretion of the local reporting entity. In fact, some of the local entities use cost-free DOJ-provided “front-end software” for their own internal data collection/maintenance system needs. All DOJ forms are developed, sent and processed at DOJ expense.

⁴ The City of Newport Beach has not explained how it is responsible for costs associated with reporting accomplished by the Orange County Probation Department.

restored effective 1996 (Chapter 803 of Stats. of 1995). At that time, DOJ switched from a paper to an electronic reporting system.⁵

Chapter 468, Statutes of 2001

In 2001 (Chapter 468, stats. 2001, urgency legislation) the Legislature required county probation departments to provide additional information regarding juvenile offenders (e.g., number of direct filings, number of fitness hearings, etc.) in response to Proposition 21. The DOJ electronic reporting system was modified to add fields to capture the additional inform.

2. Section 13014 - Homicide Cases

Chapter 1338, Statutes of 1992

Penal Code section 13014, enacted in 1992, did not add any new requirements for reporting homicides. The demographic information described in subparagraph (b) of section 13014 was already included on the Supplementary Homicide Report provided to the local entities by the DOJ. Copies of the current Supplementary Homicide Report (with a revision date of 9/90) and a prior version (with a revision date of 7/11/75) are attached, collectively, as Exhibit B. These forms demonstrate that the same demographic information has been required since at least 1975, and that no additional information was required as a result of the addition of Penal Code section 13014. Further, it is noteworthy that Penal Code section 13014 did not cause any change in the general Uniform Crime Reporting Return A (an FBI form), as it relates to homicides. A current copy of the Return A form (with a revision date of 8/7/89) is attached hereto as Exhibit C.

3. Section 13023 - Hate Crimes

Chapter 1172, Statutes of 1989

Although hate crime legislation passed in 1989, because of a lack of funding, the DOJ did not begin collecting data until 1994. There is an annual reporting form (CJSC 5) that is sent to *county*⁶ district attorneys. A copy of current CJSC 5 is attached hereto as Exhibit D. Local law enforcement agencies are also required to report on hate crimes monthly, by simply sending

⁵ In fact, a committee comprised of DOJ staff and representatives from probation departments participated in the development of the reporting forms. And there may be some data that is currently being collected solely at the request of the probation departments.

⁶ The City of Newport Beach has not explained how it is responsible for costs associated with this reporting requirement that falls upon the district attorney, an Orange County officer.

copies of their own (regularly prepared and maintained) crime reports to DOJ. If the local law enforcement agency has nothing to report in a given month, it is required to so indicate. (See "Monthly Hate Crime Report" attached hereto as Exhibit E.)

Chapter 933, Statutes of 1998

AB 1999 (Chapter 933, Stats. 1998) added crimes motivated by the "gender" of the victim to the list of hate crimes. In turn, DOJ notified local law enforcement that hate crimes include those crimes in which the gender (male, female, trans-gender) of the victim is the motivating force behind the crime and that crime reports relating to such crimes must be forwarded to DOJ on a monthly basis like all other hate crimes.

Chapter 626, Statutes of 2000

AB 715 (Chapter 626, Stats. of 2000) added crimes motivated by the "national origin" of the victim to the list of hate crimes. In turn, DOJ notified local law enforcement that hate crimes include those crimes in which the national origin of the victim is the motivating force behind the crime and that crime reports relating to such crimes must be forwarded to DOJ on a monthly basis like all other hate crimes.

4. Penal Code Sections 12025(h)(1)/Concealable Weapon and 12031(m)(1)/Loaded Weapon

Chapter 571, Statutes 1999

Chapter 571 added a requirement that, beginning in 2000 and sunseting in 2005, the *county*⁷ district attorney file an annual report concerning each person charged with carrying a concealable weapon and/or loaded weapon. DOJ has developed a combined reporting form (CJSC 4). A copy of form CJSC 4 is attached hereto as Exhibit F.

5. Penal Code Section 13730 - Domestic Violence

Chapter 1609, Statutes of 1984

The DOJ reporting form related to incidents of domestic violence has not changed since its inception in 1986. Copies of the form CJSC 715 used in 1986 and the current version of the same form are attached hereto, collectively, as Exhibit G. Other requirements of Section 13730,

⁷ Again, the City of Newport has not explained how it is responsible for costs associated with this reporting requirement that falls upon the district attorney, an Orange County officer.

Paula Higashi, Executive Director
January 28, 2003
Page 6

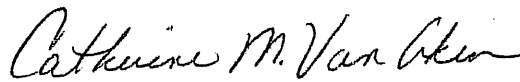
as amended,⁸ relate to local law enforcement's own internal documentation of domestic violence incidents and have nothing to do with DOJ reporting requirements.

6. Senate Resolution 64, Chapter 147, Statutes of 1982

Through this resolution, the Legislature requests, but does not mandate, local law enforcement "to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older." The same resolution requests that the DOJ solicit and collect such information from the local entities. DOJ has prepared a form for this purpose (CJSC 727). A copy of CJSC 727 is attached hereto as Exhibit H.

We hope that this information will assist the Commission in its review of the City's claim. If you have any additional questions, please do not hesitate to contact me.

Sincerely,



CATHERINE M. VAN AKEN
Supervising Deputy Attorney General

For BILL LOCKYER
Attorney General

Attachments

⁸ I.e, Chapter 1230, Statutes 1993, Chapter 965, Statutes of 1995, and Chapter 483, Statutes of 2001. None of these amendments required alteration of the existing DOJ form or the development of a new form.

BILL LOCKYER
 Attorney General

State of California
 DEPARTMENT OF JUSTICE



ANNUAL REPORT OF CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS

TYPE OF COMPLAINT	NUMBER REPORTED	NUMBER UNFOUNDED	NUMBER EXONERATED	NUMBER NOT SUSTAINED	NUMBER SUSTAINED
NON-CRIMINAL					
CRIMINAL (FELONY)					
CRIMINAL (MISDEMEANOR)					
TOTALS					

AGENCY NAME _____

YEAR OF REPORT 2001 NCIC NUMBER _____

PREPARED BY _____

PHONE NUMBER (____) _____

INSTRUCTIONS

- Definitions of citizen's complaints and the method of their calculation should be determined by each police agency under Penal Code Section 832.5, which requires police agencies to establish procedures to investigate such complaints and make written descriptions of the procedures used.
- Citizens' complaint information should adhere strictly to those data elements named in Penal Code Section 13012 (d) and should be limited to the "total number of such complaints, the number alleging criminal conduct of either felony or misdemeanor, and the number sustained in each category."
- The primary unit of count should be the actual event. An event is defined as an occurrence of alleged misbehavior which has unity of time, place, and behavior. In some circumstances where there are multiple alleged victims, consideration should be given to modifying the counting procedure to account for the number of victims.
- Number Reported: Enter the number of complaints reported during the year in the "reported" column opposite the "type" of complaint which properly identifies it.
- Number Unfounded: Enter the number of complaints unfounded during the year in the "unfounded" column opposite the "type" of complaint which properly identifies it. "Unfounded" means that the investigation clearly established that the allegation is not true.
- Number Exonerated: Enter the number of complaints exonerated during the year in the "exonerated" column opposite the "type" of complaint which properly identifies it. "Exonerated" means that the investigation clearly established that the actions of the peace officer that formed the basis for the complaint are not violations of law or department policy.
- Number Not Sustained: Enter the number of complaints not sustained during the year in the "not sustained" column opposite the "type" of complaint which properly identifies it. "Not Sustained" means that investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation made in the complaint.
- Number Sustained: Enter the number of complaints sustained during the year in the "sustained" column opposite the "type" of complaint which properly identifies it. "Sustained" means that the investigation clearly established that the actions of the peace officer that formed the basis for the complaint are a violation of law or department policy.
- If you have no reported, unfounded, exonerated or sustained complaints to report for the year, write the word "none" across the face of the report and return it to the Criminal Justice Statistics Center.

MAIL OR FAX COMPLETED FORM TO:	CRIMINAL JUSTICE STATISTICS CENTER P.O. BOX 903427 SACRAMENTO, CA 94023-4270 FAX (916) 227-3561
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SUPPLEMENTARY HOMICIDE REPORT

In view of the importance of the homicide classification in crime reporting, it is requested that the following supplementary report be filled in and transmitted with the monthly Return A to: Bureau of Criminal Statistics, P. O. Box 903427, Sacramento, CA 94203-4270.

1A. MURDER AND NON-NEGLIGENT MANSLAUGHTER

1. Number of willful killings without due process of law. (Column 2 of Return A.) Do not include suicides or attempts to murder. Attempts to murder should be scored as Aggravated Assault on the Return A.

2. Number of cases classified as justified or excusable, limited to killing of a person by a peace officer in the line of duty and the killing of a felon by a private citizen. (Column 3 of Return A.)

3. Actual offenses. (The difference between 1 and 2 above.) (Column 4 of Return A.)

1B. MANSLAUGHTER BY NEGLIGENCE

1. Number of killings of another person through gross negligence. (Do not list traffic deaths.) (Score deaths below in Columns 2 and 4 of Return A.)

Indicate briefly below the circumstances of the case(s)

CASE NUMBER/ DATE OF INCIDENT	VICTIM and OFFENDER (if known)				VICTIM/ OFFENDER RELATIONSHIP	WEAPON (handgun, shotgun, rifle, knife, club, etc.)	CIRCUMSTANCES (victim shot by robber, gang or drug related, etc.) LOCATION OF HOMICIDE (street, victim's residence, bar, etc.)	CLEARED Yes or No
	NAME	AGE	SEX	RACE/ ETHNICITY				
	V							
	O							
	V							
	O							
	V							
	O							

Exhibit B

Month _____, 19____

Agency _____

State _____

BCS 15 (REV 9/90)

SUPPLEMENTARY HOMICIDE REPORT (continued)

CASE NUMBER/ DATE OF INCIDENT	VICTIM and OFFENDER (if known)				VICTIM/ OFFENDER RELATIONSHIP	WEAPON (handgun, shotgun, rifle, knife, club, etc.)	CIRCUMSTANCES (victim shot by robber, gang or drug related, etc.) LOCATION OF HOMICIDE (street, victim's residence, bar, etc.)	CLEARED Yes or No
	NAME	AGE	SEX	RACE/ ETHNICITY				
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SUPPLEMENTAR HOMICIDE REPORT

In view of the importance of the homicide classification in crime reporting, it is requested that the following supplementary report be filled in and transmitted with monthly Return A to: Uniform Crime Reports, Federal Bureau of Investigation, U. S. Department of Justice, Washington, D. C. 20535.

12-84 (Rev. 7-17 75)
 Form Approved
 Budget Bureau
 A-R0002

1a. Murder and Negligent Manslaughter
 List below specific information for all offenses shown in item 1a of the monthly Return A. In addition, list all justifiable killings of felons by a citizen or by a peace officer in the line of duty.

Month and Year	Agency Identifier	Prepared By	Title	Do Not Write Here	Initials	Victim **		Offender **		Data Code		Weapon Used (Handgun, Rifle, Shotgun, Club, Poison, etc.)	Relationship of Victim to Offender (Husband, Wife, Son, Father, Acquaintance, Neighbor, Stranger, etc.)	Circumstances (Victim shot by robber, robbery victim shot robber, killed by patron during barroom brawl, etc.)
						Age	Sex	Age	Sex	Race	Do Not Write In These Spaces			

* See reverse side for explanation

Month and Year _____ Agency Identifier _____
 Agency _____ State _____

Prepared By _____
 Chief, Sheriff, Commissioner, Superintendent

Title

FBI/DOJ

Recorded	
Edited	
Paraphrased	
Verified	
Adjusted	

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SUPPLEMENTARY HOMICIDE REPORT (Continued)

1b. Manslaughter by Negligence

Do not list traffic fatalities, accidental deaths, or death due to the negligence of the victim. List below all other negligent manslaughter, regardless of prosecutive action taken.

Date	Victim **			Offender **			Data Code	Do Not Write In These Spaces	Weapon Used (Handgun, Rifle, Shotgun Knife, etc.)	Relationship of Victim to Offender (Husband, wife, Son, Father, Acquaintance, Neighbor, Stranger, etc.)	Circumstances (Victim shot in hunting accident, gunclensing, children playing with gun, etc.)
	Situation *	Age	Sex	Race	Age	Sex					

* - Situations A - Single Victim/Single Offender

B - Single Victim/Unknown Offender or Offenders

C - Single Victim/Multiple Offenders

Use only one victim/offender situation code per set of information. The utilization of a new code will signify the beginning of a new murder situation.

** Age - 01 to 99. If 100 or older use 99. New born up to one week old use NB. If over one week, but less than one year old use BB. Use two characters only in age columns.

Sex - M for Male and F for Female. Use one character only.

Race - White - W, Negro - N, American Indian - I, Chinese - C, Japanese - J, Other - O, Unknown - U. Use only these as race designat.

D - Multiple Victims/Single Offender

E - Multiple Victims/Multiple Offenders

F - Multiple Victims/Unknown Offender or Offenders

OLD S&R

[Redacted text]

[Redacted text]

4-927 (Rev. 8-7-89)
Form Approved
OMB No. 1110-0001

1 CLASSIFICATION OF OFFENSES	2 OFFENSES REPORTED OR KNOWN TO POLICE (INCLUDE "UNFOUNDED" AND ATTEMPTS)	3 UNFOUNDED, I.E., FALSE OR BASELESS COMPLAINTS	4 NUMBER OF ACTUAL OFFENSES (COLUMN 2 MINUS COLUMN 3) (INCLUDE ATTEMPTS)	5 TOTAL OFFENSES CLEARED BY ARREST OR EXCEPTIONAL MEANS (INCLUDES COL. 4)	6 NUMBER OF CLEARANCES INVOLVING ONLY PERSONS UNDER 18 YEARS OF AGE
1. CRIMINAL HOMICIDE*					
a. MURDER AND NONNEGLIGENT HOMICIDE (score attempts as aggravated assault) if homicide reported, submit Supplementary Homicide Report					
b. MANSLAUGHTER BY NEGLIGENCE					
2. FORCIBLE RAPE TOTAL					
a. Raps by Force					
b. Attempts to commit Forcible Rape					
3. ROBBERY TOTAL					
a. Firearm					
b. Knife or Cutting Instrument					
c. Other Dangerous Weapon					
d. Strong-Arm (Hands, Fists, Feet, Etc.)					
4. ULT TOTAL					
a. Firearm					
b. Knife or Cutting Instrument					
c. Other Dangerous Weapon					
d. Hands, Fists, Feet, Etc. - Aggravated Injury					
e. Other Assaults - Simple, Not Aggravated					
5. BURGLARY TOTAL					
a. Forcible Entry					
b. Lawful Entry - No Force					
c. Attempted Forcible Entry					
6. LARCENY-THEFT TOTAL (Except Motor Vehicle Theft)					
7. MOTOR VEHICLE THEFT TOTAL					
a. Allies					
b. Trucks and Buses					
c. Other Vehicles					
GRAND TOTAL					

CHECKING ANY OF THE APPROPRIATE BLOCKS BELOW WILL ELIMINATE YOUR NEED TO SUBMIT REPORTS WHEN THE VALUES ARE ZERO. THIS WILL ALSO AID THE NATIONAL PROGRAM IN ITS QUALITY CONTROL EFFORTS.

NO SUPPLEMENTARY HOMICIDE REPORT SUBMITTED SINCE NO MURDERS, JUSTIFIABLE HOMICIDES, OR MANSLAUGHTER BY NEGLIGENCE OCCURRED IN THIS JURISDICTION DURING THE MONTH.

NO AGE, SEX, AND RACE OF PERSONS ARRESTED UNDER 18 YEARS OF AGE REPORT SINCE NO ARRESTS OF PERSONS WITHIN THIS AGE GROUP.

NO SUPPLEMENT TO RETURN A REPORT SINCE NO CRIME OFFENSES OR RECOVERY OF PROPERTY REPORTED DURING THE MONTH.

NO AGE, SEX, AND RACE OF PERSONS ARRESTED UNDER 18 YEARS OF AGE AND OVER REPORT SINCE NO ARRESTS OF PERSONS WITHIN THIS AGE GROUP.

NO LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED REPORT SINCE NONE OF THE OFFICERS WERE ASSAULTED OR KILLED DURING THE MONTH.

NO MONTHLY RETURN OF ARSON OFFENSES KNOWN TO LAW ENFORCEMENT REPORT SINCE NO ARSONS OCCURRED.

Month and Year of Report

NCIC Agency Number

Population

Date

Prepared By

Title

Agency and State

Chief, Commissioner, Sheriff, or Superintendent

Exhibit C

FRONT

INSTRUCTIONS FOR PREPARING RETURN A

(Instructions in detail are given in the Uniform Crime Reporting Handbook)

1. All offenses listed on the Return A which occur during the month should be scored whether they become known to the police as the result of:
 - a. Citizens' complaints
 - b. Reports of police officers.
 - c. "On view" (pick-up) arrests.
 - d. Citizens' complaints to sheriff, prosecutor, county police, private detectives, constables, etc.
 - e. Any other means.
2. The offenses listed in Column 1 are the Crime Index offenses of the Uniform Crime Reporting Program plus the offenses of simple assault and manslaughter by negligence. Follow the instructions for classifying and scoring as presented in the Uniform Crime Reporting Handbook. Offenses committed by juveniles should be classified in the same manner as those committed by adults even though the juveniles may be handled by juvenile authorities.
3. Adjustments should be made on this month's return for offenses omitted or scored inaccurately on returns of preceding months or those now determined to be unfounded. Offenses that occurred in a previous month but only became known to you this month should be scored this month.
4. Consider all spaces for each classification of offenses in Columns 2, 3, 4, 5, and 6. The breakdowns for forcible rape, robbery, assault, burglary, and motor vehicle theft, when added should equal the total for each of these offenses. Do not enter zeroes where no count exists.
5. Attempts of rape, robbery, assault, burglary, larceny-theft, and motor vehicle theft are to be scored on this form.
6. Column 2: Enter opposite the proper offense classification the total number of such offenses reported or known through any means. "Unfounded" complaints are included. Attempts are included except in homicide classifications.
7. Column 3: Enter the number of complaints which were proven to be "unfounded" by police investigation. An "unfounded" offense is one on which a complaint was received, but upon investigation, proves either to be baseless or not to have actually occurred. Remember that recovery of property or clearance of an offense does not unfound a complaint.
8. Column 4: Number of actual offenses. This number is obtained by subtracting the number in Column 3 from that in Column 2.
9. Column 5: Enter the total number of offenses cleared during the month. This total includes the clearances which you record in Column 6. An offense is cleared when one or more persons are charged and turned over for prosecution for that offense. Clearance totals also include exceptional clearances which are explained in the Uniform Crime Reporting Handbook.
10. Column 6: Enter here the number of offenses which are cleared through the arrest, releasing to parents, or other handling of persons under the age of 18. In those situations where an offense is cleared through the involvement of both an adult and a person under 18 years of age, count the clearance only in Column 5.
11. The grand totals for columns 2, 3, 4, 5, and 6 are the totals of each of the seven classifications.
12. Tally books can be used to maintain a running count of offenses through the month. Totals for the Return A can then be taken directly from the Tally book. These Tally books can be obtained by corresponding with the Uniform Crime Reports.
13. This Return A report should be forwarded to the FBI Uniform Crime Reports even though no offenses of this type listed were committed during the month. However, it is not necessary to submit supplemental reports in such cases. Simply check the appropriate box within the block near the bottom of the Return A report.
14. Any inquiry regarding the completion of this form or the classification and scoring of offenses in Uniform Crime Reporting should be directed to the Uniform Crime Reports, Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535 or can be made by attaching a note with a return address, to this form.
15. Any contributing police agency that desires to submit crime data on a computer printout should contact the Uniform Crime Reporting Section by mail at the above-mentioned address or by telephone 202-324-2614 prior to beginning this type of submission.

DISTRICT ATTORNEY AND ELECTED CITY ATTORNEY ANNUAL REPORT OF HATE CRIME CASES

January through December 2002

(California Penal Code Sections 13020, 13023, and 13870)

California Penal Code section 13023 provides the statutory authority for the Attorney General to collect hate crime data from law enforcement agencies; it also defines a hate crime as any criminal act or attempted criminal act 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, gender, sexual orientation, national origin or physical or mental disability.

There were **no hate crime cases** referred to or initiated by the district or elected city attorney's office during 2002 (*check box if no hate crime cases referred*).

Number of hate crime cases (not the number of defendants) for each of the following:

Note: District Attorney and Elected City Attorney counts should include all cases regardless of juvenile or adult status.

- I. The total number of hate crime cases that were referred to or initiated by your office. _____
Report all hate crime cases in which one or more defendants have been identified.
- II. The total number of hate crime cases referred to or initiated which were rejected for filing. _____
- III. The total number of cases referred to or initiated as hate crimes which were charged as other than a hate crime case. _____
- IV. The total number of cases that were filed or initiated as hate crimes. _____
 - A. The total number of hate crime cases which resulted in hate crime convictions.
Of those, how many were:
 - 1. "Nolo contendere" or "Guilty pleas" _____
 - 2. "Trial Verdicts" _____
 - B. The total number of hate crime cases which resulted in a non-bias-motivated crime conviction. _____
 - C. The total number of hate crime cases which resulted in a finding of "Not Convicted." _____

DISTRICT/ELECTED CITY ATTORNEY

CITY/COUNTY

NAME OF PERSON PREPARING REPORT

TELEPHONE NUMBER

()

DISTRICT/ELECTED CITY ATTORNEY SIGNATURE

DATE

Monthly Hate Crime Report

Agency: _____

NCIC Number: _____

Reporting Month: _____

There were no "Hate Crimes" reported to this department for this month.

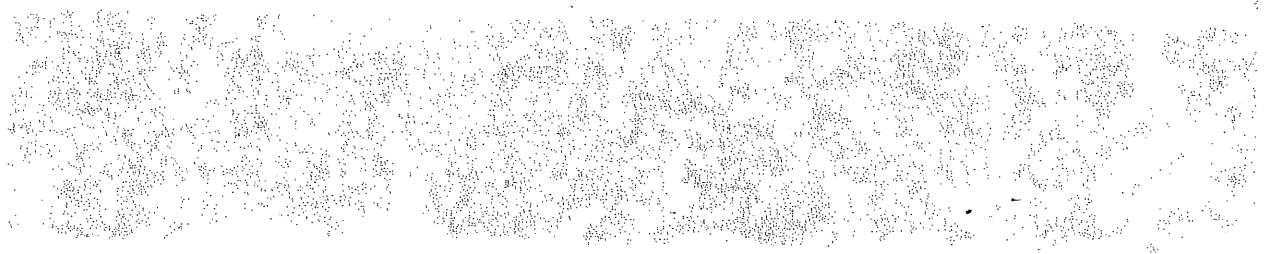
Signature and Title _____ (_____) _____
Phone

PLEASE RETURN TO:

State of California
 Department of Justice
 Bureau of Criminal Information and Analysis
 P. O. Box 903427
 Sacramento, CA 94203-4270

Attn: Bias-Motivated Crime Program

②



CONCEALABLE WEAPONS CHARGES REPORT

County _____

Month _____

Prepared by _____

Page _____

REFERENCE NUMBER	DATE OF ARREST		RACE <small>(Enter one code from legend)</small>	GENDER		DATE OF BIRTH	WEAPONS CHARGE	LEVEL		CHARGE 2 <small>(if applicable)</small>	CHARGE 3 <small>(if applicable)</small>	CHARGE 4 <small>(if applicable)</small>
	Mo / Day / Yr	Mo / Day / Yr		M	F			Mo / Day / Yr	F			
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MONTHLY REPORT OF
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE
California Penal Code (PC) Section 13730(a)

Type of data		Number	
Total domestic violence calls received		100	1
Total cases in which weapons were involved . .		50	2
S U B T O T A L	Firearm	5	3
	Knife or cutting instrument	5	4
	Other dangerous weapon	10	5
	Personal weapon (hands, fists, feet, etc.).	30	6

NAME OF AGENCY

AGENCY NCIC NUMBER

REPORT PERIOD (MONTH AND YEAR)

PREPARED BY

DEFINITIONS:

The following definitions are to be used when completing this form:

DOMESTIC VIOLENCE – "Abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has or has had a dating or engagement relationship." (Section 13700(b) PC)

ABUSE – "Intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, or another." (Section 13700(a) PC)

INSTRUCTIONS FOR COMPLETION:

1. Enter the total number of domestic violence-related calls received by your agency in the "Total domestic violence calls received" column. Of the "Total domestic violence calls received," enter the number of cases involving weapons in the "Total cases in which weapons were involved" column. Of the "Total cases in which weapons were involved," enter the subtotal for each weapon category.
2. Please complete one form for each month and submit the form with your "Return A -- Monthly Return of Offenses Known to the Police."
3. If there are no calls received during the report period, write the word "NONE" across the face of this form and submit it with your "Return A."

RETURN TO:
 BUREAU OF CRIMINAL STATISTICS
 P. O. BOX 903427
 SACRAMENTO, CA 94203-4270

Exhibit G OLD DV

**MONTHLY REPORT OF
DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE**
California Penal Code (PC) Section 13730(a)

Type of data		Number
Total domestic violence calls received and verified		
Total cases in which weapons were involved		
S U B T O T A L	Firearm	
	Knife or cutting instrument	
	Other dangerous weapon	
	Personal weapon (hands, fists, feet, etc.)	

NAME OF AGENCY

AGENCY NCIC NUMBER

REPORT PERIOD (MONTH AND YEAR)

PREPARED BY

INSTRUCTIONS FOR COMPLETION:

**REPORT ONLY THOSE DOMESTIC VIOLENCE-RELATED CALLS FOR ASSISTANCE
WHICH HAVE BEEN VERIFIED. SEE REVERSE SIDE OF THIS FORM FOR
PENAL CODE STATUTES TO BE USED WHEN COMPLETING THIS FORM.**

1. Enter the total number of domestic violence-related calls that are received and verified by your agency in the "Total domestic violence calls received and verified" column. Of the "Total domestic violence calls received and verified," enter the number of cases involving weapons in the "Total cases in which weapons were involved" column. Of the "Total cases in which weapons were involved," enter the subtotal for each weapon category.
2. Complete one form for each month and submit the form with your "Return A - Monthly Return of Offenses Known to the Police."
3. If there are no calls received during the report period, write the word "NONE" across the face of this form and submit it with your "Return A."

RETURN TO:

CRIMINAL JUSTICE STATISTICS CENTER
P. O. BOX 903427
SACRAMENTO, CA 94203-4270

CJSC 716 (Rev. 9/97)
806 FORMS DIV

*DV
Front*

1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946 1947 1948 1949 1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022

NUMBER OF VIOLENT CRIMES COMMITTED AGAINST SENIOR CITIZENS

IN ACCORDANCE WITH SENATE CONCURRENT RESOLUTION NO. 64 (CHAPTER 147, 1982), IT IS REQUESTED THAT LOCAL LAW ENFORCEMENT AGENCIES AND THE DEPARTMENT OF JUSTICE PROVIDE THE LEGISLATURE WITH STATISTICAL INFORMATION CONCERNING VICTIMS OF VIOLENT CRIMES WHO ARE 60 YEARS OF AGE OR OLDER.

Please complete one form for each month and submit it with your "Return A - Monthly Return of Offenses Known to the Police." Report the number of persons, 60 years of age or older, who were victims of any of the crimes shown below. When multiple crimes occurred during a single incident, show only the most serious for each victim according to the order of the following list.

TYPES OF VIOLENT CRIMES	NUMBER OF VICTIMS 60 YEARS OF AGE OR OLDER
1 HOMICIDE	
2 FORCIBLE RAPE	
3 ROBBERY	
4 AGGRAVATED ASSAULT	
5 TOTAL	

NAME OF AGENCY

AGENCY NCIC NUMBER

REPORT PERIOD (MONTH AND YEAR)

PREPARED BY

If you have no data to report for the month, please write the word "NONE" across the face of this form and submit it with your "Return A".

RETURN TO:
 CRIMINAL JUSTICE STATISTICS CENTER
 P.O. BOX 903427
 SACRAMENTO, CA 94203-4270

