

**ITEM 8**  
**FINAL STAFF ANALYSIS**  
**PROPOSED PARAMETERS AND GUIDELINES**

Family Code Section 6228

Statutes 1999, Chapter 1022

*Crime Victim's Domestic Violence Incident Reports (99-TC-08)*

County of Los Angeles, Claimant

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*Crime Victim's Domestic Violence Incident Reports (99-TC-08)*

County of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

On September 25, 2003, the Commission on State Mandates (Commission) adopted a corrected Statement of Decision finding that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for three years.  
(Fam. Code, § 6228, subd. (e).)

The Commission further found that under prior law, cities and counties were already required to keep the domestic violence incident reports for two years.

**Discussion**

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

Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines. A draft staff analysis was issued on March 26, 2004. The claimant submitted comments on April 15, 2004, requesting that staff include a uniform cost allowance. Commission staff issued a revised draft staff analysis on October 11, 2005. No comments were received.

**III. Period of Reimbursement**

Staff clarified that only those costs incurred for storing domestic violence incident reports and face sheets for the third, fourth, and fifth years of storage are reimbursable on or after January 1, 2000.

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

The claimant proposed several activities in addition to the requirement that the domestic violence incident reports and face sheets be stored for an additional three years. The Commission specifically found that cities and counties were already required to keep these documents for two years under prior law. Accordingly, any activities that flow from this previous requirement are not reasonably necessary to carry out this mandate. Therefore, staff did not include the claimant's proposed activities 2, 3, 4, 6, and 7.

As to the proposed activity for developing policies and procedures, staff finds that it is reasonably necessary only to revise any existing policies and procedures regarding the storage of domestic violence incident reports and face sheets in a readily accessible format to include the additional three-year requirement. Staff limited this to a one-time activity.

Moreover, staff limited the proposed activity to store domestic violence incident reports and face sheets to the cost of retaining the documents in a readily accessible format, including file storage, for the three-year period of time after the pre-existing mandatory two-year retention period provided in Government Code sections 26202 and 34090.

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

The claimant included in its proposal a provision providing that actual costs may be claimed based on a uniform allowance per stored domestic violence report, including the face sheet, per year. The claimant states that the proposed uniform allowance of \$1.00 per record per year was based on the 1997-1998 base year allowance.

On September 1, 2005, the claimant's representative submitted results of a survey sent to sheriffs in California regarding storage of domestic violence incident files. Staff finds that the survey information does not substantiate the claimant's proposal of \$1 per record per year. According to the data provided, about 66 departments responded to the questions regarding storage of domestic violence incident reports.<sup>1</sup> About 49 departments indicated that the cost to retain each report each year was either unknown, minimal, or zero. The remaining 17 departments reported costs of \$0.02 to \$292 per record per year. Of the 17 departments that reported costs in the survey, staff finds that only six reported reimbursable costs.

Based on a review of the data provided, staff proposes a uniform cost allowance of \$0.40 per record per year for storing domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for an *additional* three years. The proposed uniform cost allowance covers all the direct and indirect costs of performing activity B.1. described in section IV of the parameters and guidelines. Reimbursement is determined by multiplying the uniform cost allowance of \$0.40 by the number of domestic violence incident reports that are being stored for an additional three-year period of time after the pre-existing mandatory two-year retention period. Eligible claimants must show that costs were in fact incurred in order to claim costs using the uniform cost allowance for this program.

Further, because there is no evidence in the record that contracted services, travel, or training is necessary to perform proposed activity A.1., staff did not include these components as a direct cost that is eligible for reimbursement.

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<sup>1</sup> Exhibit I.

**Staff Recommendation**

Staff recommends that the Commission adopt staff's proposed parameters and guidelines, beginning on page 11.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing



## STAFF ANALYSIS

### Claimant

County of Los Angeles

### Chronology

05/29/03 Commission on State Mandates (Commission) adopted Statement of Decision  
06/13/03 Claimant submitted its proposed parameters and guidelines  
09/25/03 Commission adopted a corrected Statement of Decision  
10/27/03 The State Controller's Office (SCO) submitted comments  
11/14/03 The Department of Finance (DOF) submitted comments  
12/17/03 Claimant submitted its revised proposed parameters and guidelines  
03/26/04 Commission staff issued draft staff analysis  
04/15/04 Claimant submitted comments on the draft staff analysis  
04/27/04 Claimant submitted a supplement to the parameters and guidelines to support proposed unit cost  
07/15/04 Commission staff requested fiscal information representative of cities and counties statewide to support unit cost proposal  
03/29/05 Commission staff conducted a pre-hearing conference  
09/01/05 Claimant's representative submitted survey information  
10/11/05 Commission staff issued a revised draft staff analysis.  
11/15/05 Commission staff issued the final staff analysis

### Summary of the Mandate

On September 25, 2003, the Commission adopted a corrected Statement of Decision finding that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for three years.  
(Fam. Code, § 6228, subd. (e).)

The Commission further found that under prior law, cities and counties were already required to keep the domestic violence incident reports for two years.

### Discussion

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

Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines. A draft staff analysis was issued on March 26, 2004. The claimant submitted comments on April 15, 2004, requesting that staff include a uniform cost allowance.

Commission staff issued a revised draft staff analysis on October 11, 2005. No comments were received.

### ***III. Period of Reimbursement***

Because the Commission found that prior law already required cities and counties to keep the domestic violence incident reports for two years, the SCO and DOF recommended the addition of language to clarify that only those costs incurred for storing domestic violence incident reports and face sheets for the third, fourth, and fifth years of storage are reimbursable on or after January 1, 2000. Staff made the modification accordingly.

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

#### **Claimant's Proposal**

On December 17, 2003, the claimant submitted its revised proposed parameters and guidelines, which included the following activities as eligible for reimbursement:

1. Develop policies and procedures for the storage of domestic violence incident reports and face sheets in a readily accessible format for five years.
2. Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.
3. Receive, log-in, microfiche [if applicable], or electronically image [if applicable], classify, file and lock-up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.
4. If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.
5. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for five years.
6. Train each staff person on methods and procedures for storing domestic violence reports and face sheets.
7. The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However, reimbursement is limited to the pro rata share of costs of reimbursable activities [specified above].

### State Controller's Office Comments

In its comments dated October 24, 2003,<sup>2</sup> the SCO recommended that the claimant's proposed activities 1, 2, 3, 4, and 7 be deleted because the Commission found that prior law already required cities and counties to keep the domestic violence incident reports for two years. Therefore, these activities are not reimbursable under this mandate.

Also, the SCO suggested the addition of limiting language to the claimant's proposed activities 5 and 6. Specifically, the SCO stated that proposed activity 5 should be limited to only three years of storage costs, which commences after the initial two years of costs are incurred, and proposed activity 6 should be limited to one-time training for each employee.

### Department of Finance's Comments

In its comments dated November 14, 2003,<sup>3</sup> DOF also recommended that the claimant's proposed activities 1, 2, 3, 4, and 7 be deleted because the Commission found that prior law already required cities and counties to keep the domestic violence incident reports for two years. Therefore, these activities are not reimbursable under this mandate.

### **Staff Finding and Proposal**

This program requires that the domestic violence incident reports and face sheets be stored for an additional three years. The Commission found that cities and counties were already required to keep these documents for two years under prior law. Accordingly, any activities that flow from this previous requirement are not reasonably necessary to carry out this mandate. Therefore, staff did not include the claimant's proposed activities 2, 3, 4, 6, and 7.

As to the proposed activity for developing policies and procedures, staff agrees with the SCO and DOF that this activity would also fall under those that flow from the prior law requirement. However, staff finds that it is reasonably necessary to revise any existing policies and procedures regarding the storage of domestic violence incident reports and face sheets in a readily accessible format to include the additional three-year requirement. Staff limited this to a one-time activity.

Also, staff limited the proposed activity to store domestic violence incident reports and face sheets to the cost of retaining the documents in a readily accessible format, including file storage, for the three-year period of time after the mandatory two-year retention period provided in Government Code sections 26202 and 34090.

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

The claimant included in its proposal a provision providing that actual costs may be claimed based on a uniform allowance per stored domestic violence report, including the face sheet, per year. The claimant states that the proposed uniform allowance of \$1.00 per record per year was based on the 1997-1998 base year allowance.

In its comments to the draft staff analysis dated April 15, 2004,<sup>4</sup> the claimant requested that staff include a uniform allowance to avoid unnecessary and expensive claim preparation activities.

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<sup>2</sup> Exhibit C.

<sup>3</sup> Exhibit D.

<sup>4</sup> Exhibit F.



On April 27, 2004,<sup>5</sup> the claimant submitted a supplement to its proposed parameters and guidelines, which provided fiscal information regarding Los Angeles County to support the adoption of a unit cost for the program. On July 15, 2004, Commission staff requested that the claimant provide fiscal information that is representative of cities and counties statewide to support the adoption of a unit cost.<sup>6</sup> Commission staff conducted a pre-hearing conference on March 29, 2005, to discuss a reasonable reimbursement methodology. On September 1, 2005, the claimant's representative submitted results of a survey sent to sheriffs and police departments in California regarding storage of domestic violence incident files.<sup>7</sup>

The claimant's representative developed a questionnaire to be completed by an employee responsible for maintaining general domestic violence incident files. As stated in the declaration by Ms. Ginger Bernard,<sup>8</sup> the survey was mailed to "a list of sheriffs in the state of California that [she] received from [the] California State Association of Counties." Ms. Bernard also stated that the survey was sent to the City of Newport Beach because the city's Chief of Police volunteered to forward the survey to the members of the Chiefs of Police Association.

The questionnaire consisted of the following three questions:

1. Please specify the method by which you archive Domestic Violence Incident Reports.
2. How much does it cost you to retain each Domestic Violence Incident Report each year?
3. How did you calculate the costs stated above?

Staff finds that the survey information does not substantiate the claimant's proposal of \$1 per record per year. Rather, the survey information shows that costs to store the domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for an additional three years results in, for the most part, negligible costs. According to the spreadsheet provided by Ms. Bernard, about 66 departments responded to the questions regarding storage of domestic violence incident reports.<sup>9</sup> About 49 departments indicated that the cost to retain each report each year was either unknown, minimal, or zero. The remaining 17 departments reported costs of \$0.02 to \$292 per record per year, as shown below:

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<sup>5</sup> Exhibit G.

<sup>6</sup> Exhibit H.

<sup>7</sup> Exhibit I.

<sup>8</sup> Exhibit I, page 186.

<sup>9</sup> Exhibit I, pages 187-200.

Local Agency	Cost to retain each report/year	Description of cost
Arcata Police Dept.	\$0.02	Boxed for offsite storage
Sacramento County Sheriff	\$0.20	Equipment support and plater replacement/backup
Inglewood Police Dept.	\$0.25	Approximate cost of folder for filing purposes
Pomona Police Dept.	\$0.30	Imaging system maintenance
Cypress Police Dept.	\$0.33	File room storage and file folders
Arcadia Police Dept.	\$0.52	Storage unit and optical disks
Los Angeles County	\$1.15	Offsite storage, boxes, barcode, and delivery
Placentia Police Dept.	\$1.66	Staff time for processing reports
Riverside County Sheriff	\$3.20	Staff time for scanning
San Rafael Police Dept.	\$8.80	File review, move to offsite storage
Paradise Police Dept.	\$9.36	File set-up, administrative fee
Vernon Police Dept.	\$17.00	Pro-rated cost of software annual maintenance contract
Alhambra Police Dept.	\$19.00	Staff time for scanning
Davis Police Dept.	\$30.00	Staff time for scanning
Morro Bay Police Dept.	\$30.00	Staff time for scanning
[name not legible]	\$75.00	Staff time for auditing
Plumas County Sheriff	\$292.00	File set-up

Staff notes that costs will vary by jurisdiction and that for some, including the claimant, costs may be more significant if the reports are stored at a private storage facility. Of the 17 departments that reported costs in the survey, staff finds that only six reported reimbursable costs. The Riverside County Sheriff's Department, and the Alhambra, Morro Bay, and Davis Police Departments reported costs for staff time to scan the reports; and the Pomona and Vernon Police Departments reported costs for software maintenance contracts. However, as explained above, this program only requires that the domestic violence incident reports and face sheets be stored for an *additional* three years. The Commission found that cities and counties were already required to keep these documents for two years under prior law, and thus, any activities that flow from this previous requirement are not reasonably necessary to carry out this mandate.

Therefore, costs for staff time to scan, review the files, or set-up files are not reimbursable because these activities would have been carried out prior to the third year of storage. Moreover, in the earlier discussion about reimbursable activities, staff did not include the claimant's proposed activity for "the use of specialized software, hardware or contract services" for the same reason. Therefore, costs for software maintenance contracts are also not reimbursable.

Staff determined that for purposes of developing a reasonable reimbursement methodology, the following departments reported reasonable costs that can be used to develop a proposed uniform cost allowance for storing domestic violence incident reports and face sheets for an additional three years:

Local Agency	Cost to retain each report/year	Description of cost
Arcata Police Dept.	\$0.02	Boxed for offsite storage
Sacramento County Sheriff	\$0.20	Equipment support and plater replacement/backup
Inglewood Police Dept.	\$0.25	Approximate cost of folder for filing purposes
Cypress Police Dept.	\$0.33	File room storage and file folders
Arcadia Police Dept.	\$0.52	Storage unit and optical disks
Los Angeles County	\$1.09	Offsite storage, boxes
<i>Average cost:</i>	<i>\$0.40</i>	

With five of the six departments being located in southern California, these costs are not truly representative of the state. However, the claimant provided data and it was the best data available for developing a uniform cost allowance. If staff proposes actual costs for the program, it allows claimants to claim for costs that they may believe should be reimbursable, such as staff time for scanning or processing files. But this mandate is only reimbursable for storing the reports for an additional three years. Therefore, averaging out the cost for the six departments above, staff proposes a uniform cost allowance of \$0.40 per record per year for storing domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for an *additional* three years. The proposed uniform cost allowance covers all the direct and indirect costs of performing activity B.1. described in Section IV. of the parameters and guidelines. The proposed uniform cost allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523.

Reimbursement is determined by multiplying the uniform cost allowance of \$0.40 by the number of domestic violence incident reports that are being stored for an additional three-year period of time after the pre-existing mandatory two-year retention period. Eligible claimants must show that costs were in fact incurred in order to claim costs using the uniform cost allowance for this program.

Further, because there is no evidence in the record that contracted services, travel, or training is necessary to perform proposed activity A.1., staff did not include these components as a direct cost that is eligible for reimbursement.

#### **Staff Recommendation**

Staff recommends that the Commission adopt staff's proposed parameters and guidelines, beginning on page 11.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

## PROPOSED PARAMETERS AND GUIDELINES

~~Penal Code Section 13730~~

~~Family Code Section 6228~~

~~Statutes 1984, Chapter 1609~~

~~Statutes 1995, Chapter 965~~

~~Statutes 1999, Chapter 1022~~

### *Crime Victim's Domestic Violence Incident Reports (99-TC-08)*

County of Los Angeles, Claimant

#### I. SUMMARY OF THE MANDATE

On September 25, 2003, the Commission on State Mandates (Commission) adopted a corrected Statement of Decision finding that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for three years. (Fam. Code, § 6228, subd. (e).)

The Commission further found that under prior law, cities and counties were already required to keep the domestic violence incident reports for two years.

~~Family Code section 6228, as added by Statutes of 1999, Chapter 1022, also known as the "Access to Domestic Violence Reports Act of 1999", requires local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence upon request, generally within 48 hours.~~

~~On April 24, 2003, the Commission on State Mandates [Commission] determined that only one of the provisions of the "Access to Domestic Violence Reports Act of 1999", as added by Statutes of 1999, Chapter 1022, mandated a new program or a higher level of service for local law enforcement agencies within the meaning of section 6, article XIII B of the California Constitution. Specifically, only those activities related to "storing domestic violence incident reports and face sheets for five years" pursuant to Family Code section 6228, subdivision (e) were deemed to be reimbursable "costs mandated by the State" as defined in Government Code Section 17514.~~

~~On September 25, 2003, the Commission corrected an error of law in its April 24, 2003 decision, now finding that pre-existing law already required claimants to retain records for two years prior to destruction. Accordingly, claimants are eligible to receive reimbursement only for costs in implementing a three year mandated storage period, elapsing prior to the pre-existing two year record retention period.~~

~~If the new three year storage requirement is made optional in the State's annual budget act pursuant to Government Code Section 17581, claimants shall retain records for each year that Section 17581 is imposed, up until two years, the requirement under prior law.~~

~~Prior to the initial April 24, 2003 hearing of the matter, the claimant successfully amended the subject test claim to incorporate related changes to Family Code Section 6228 and Penal Code Section 13730 as a result of Chapter 377, Statutes of 2002, amending Section 6228 of the Family Code and Chapter 483, Statutes of 2001, amending Section 13730 of the Penal Code and, with respect to implementing Section 13730(c)(3) of the Penal Code, Section 12028.5 of the Penal Code as added and amended by Chapter 901, Statutes of 1984, Chapters 830 and 833, Statutes of 2002. This amendment has been severed and will be adjudicated separately as CSM 02 TC 18.~~

## II. ELIGIBLE CLAIMANTS

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

## III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (c), as amended by Statutes of 1998, Chapter 681 (effective September 22, 1998), 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 test claim for "Crime Victim's Domestic Violence Incident Reports" was filed by the County of Los Angeles filed the test claim on May 15, 2000, establishing eligibility for fiscal year 1998-1999. However, the test claim statute was not in effect on July 1, 1998 effective and operative date of Family Code section 6228 is January 1, 2000. Therefore, reimbursement claims may be filed for costs incurred for storing domestic violence incident reports and face sheets for the additional three years pursuant to Family Code section 6228, as added by Statutes of 1999, Chapter 1022, are reimbursable on or after January 1, 2000, for the costs of storing domestic violence incident reports and face sheets for three years for domestic violence reports and face sheets completed after January 1, 2000 and on or after January 1, 1997 through December 31, 1999 for such storage costs of domestic violence reports and face sheets completed after January 1, 1997 through December 31, 1999.~~

~~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) of the Government Code, all claims for reimbursement of initial fiscal year's costs shall be submitted within 120 days of notification by to the State Controller of the issuance within 120 days of the issuance date for the claiming instructions.~~

~~Government Code Section 17564, subdivision (a), prior to its amendment by Statutes of 2002, Chapter 1124, an urgency statute, (effective September 30, 2002) provides that if the total costs for a given year do not exceed \$200, no reimbursement shall be allowed. Section 17564, subdivision (a) as amended by Statutes of 2002, Chapter 1124, provides that if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed. Therefore, for the 2002-03 fiscal year and subsequent claims, if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed.~~

If the total costs for a given fiscal year do not exceed \$1000, 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, 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:

For each eligible claimant, the following activities are eligible for reimbursement during the first three years of storage, unless made optional under Government Code Section 17581.

##### A. One-Time Activity

1. Develop ~~Revise existing~~ policies and procedures ~~for~~ regarding the storage of domestic violence incident reports and face sheets in a readily accessible format ~~for five years to~~ include the *additional* three-year requirement.

##### B. Ongoing Activity

1. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for an *additional* three years. This is limited to the cost of retaining domestic violence incident reports and face sheets in a readily accessible format, including file storage, for the three-year period of time after the pre-existing mandatory two-year retention period provided in Government Code sections 26202 and 34090. Any activities that flow from this previous requirement are not reasonably necessary to carry out this mandate (e.g., scanning reports for archive, reviewing files, transferring or shipping files for storage).
2. ~~Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.~~

- ~~3. Receive, log in, microfiche [if applicable], or electronically image [if applicable], classify, file and lock up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.~~
- ~~4. If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.~~
- ~~5. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for five years.~~
- ~~6. Train each staff person on methods and procedures for storing domestic violence reports and face sheets.~~
- ~~7. The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However, reimbursement is limited to the pro rata share of costs of reimbursable activities [specified above].~~

## V. CLAIM PREPARATION AND SUBMISSION

### ONE-TIME ACTIVITY – Section IV.A.1.

Each of the following cost elements must be identified for the reimbursable activity identified in Section IV.A.1. 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. Fixed Assets and Equipment

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

## B. Indirect Cost Rates

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

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

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

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

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

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

### ONGOING ACTIVITY – Section IV.B.1.

Actual costs shall be claimed based on the reasonable reimbursement methodology adopted by the Commission pursuant to Government Code section 17557. The reasonable reimbursement methodology is a uniform cost allowance that covers all the direct and indirect costs of performing activity B.1. described in Section IV. of this document. Direct costs and indirect costs are described above. The uniform cost allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523.



The uniform cost allowance is \$0.40 per report per year (not to exceed three years). Reimbursement is determined by multiplying the uniform cost allowance of \$0.40 by the number of domestic violence incident reports that are being stored for an additional three-year period of time after the pre-existing mandatory two-year retention period. Eligible claimants must show that costs were in fact incurred in order to claim costs using the uniform cost allowance for this program.

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

~~A. Salaries and Benefits~~

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

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

~~B. Materials and Supplies~~

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

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

~~C. Contracted Services~~

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

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

~~D. Fixed Assets and Equipment~~

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

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

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

#### ~~E. Travel~~

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

#### ~~F. Training~~

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

#### ~~G. Indirect Cost Rates~~

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

~~Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A87. Claimants have the option of using 10% of labor, excluding fringe benefits, or, where applicable, 10% of the amount of reimbursable contract(s), if 50% or more of all reimbursable services are provided under contract, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.~~

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

~~II. Alternatively, actual costs may be claimed based on a uniform allowance per stored domestic violence report, including face sheet, per year. The uniform allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523 based on the 1997-98 base year allowance of \$1.00 per record per year.~~

The uniform allowance covers all the direct and indirect costs of performing the activities described in Section IV. I. [above]. Reimbursement is determined by multiplying the uniform allowance by the number of domestic violence reports, including face sheets, by the number of reports stored during reimbursable storage periods.

## **VI. SUPPORTING DATA**

### **A. Source Documents**

For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with, local, state, and federal government requirements.

All documentation in support of claimed costs shall be made available to the State Controller or his/her agent, as may be requested.

### **B. Recordkeeping**

Pursuant to Government Code section 17558.5, subdivision (a),<sup>1</sup> records must be retained for 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, and, accordingly, the required record retention period shall commence to run from the date of initial payment of the claim.

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

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

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

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

## ~~VIII. REQUIRED CERTIFICATION~~

~~An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein. If a claimant provides reimbursable services under contract or agreement on behalf of other eligible claimant jurisdiction(s), such services may be certified if included in claim(s) filed by the jurisdiction providing the reimbursable services.~~

## VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

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

## ~~IX. PARAMETERS AND GUIDELINES AMENDMENTS~~

~~Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2.~~

## 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 (a), 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.

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Section 13730, As Added and Amended by Statutes 1984, Chapter 1609, and Statutes 1995, Chapter 965; and

Family Code Section 6228, As Added by Statutes 1999, Chapter 1022;

Filed on May 15, 2000,

by County of Los Angeles, Claimant.

No. 99-TC-08

*Crime Victims' Domestic Violence Incident Reports*

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

*(Corrected Decision Adopted on September 25, 2003)*

STATEMENT OF DECISION

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

  
PAULA HIGASHI, Executive Director

9-30-03  
Date

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

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DIVISION 2, CHAPTER 2.5, ARTICLE 7

*(Corrected Decision Adopted on September 25,  
2003)*

**STATEMENT OF DECISION**

On April 24, 2003, the Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing. Mr. Leonard Kaye and Sergeant Wayne Bilowit appeared for claimant, County of Los Angeles. Mr. Dirk L. Anderson and Ms. Susan Geanacou appeared on behalf of the Department of Finance. At the hearing, testimony was given, the test claim was submitted, and the vote was taken.

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

The Commission adopted the staff analysis, which partially approves this test claim, by a 5-0 vote. The Statement of Decision was adopted on May 29, 2003.

On June 5, 2003, a request for reconsideration was filed, alleging the following error of law in the May 29, 2003 decision:

The Commission finding that "the state has not previously mandated any record retention requirements on local agencies for information to victims of domestic violence" does not take into consideration prior law, codified in Government Code sections 26202 and 34090, that requires counties and cities to maintain records for two years. Thus, the conclusion, that storage of the domestic violence incident report for five years constitutes a new program or higher level of service, is an error of law.

The statement of decision should be corrected to reflect that local agencies are now required to perform a higher level of service by storing these documents for three additional years only.

On June 20, 2003, the Commission, by a supermajority of five affirmative votes, granted the request for reconsideration and agreed to conduct a subsequent hearing on the merits

of the request to determine if the prior final decision is contrary to law and to correct any errors of law.

On September 25, 2003, the Commission reconsidered this test claim during a regularly scheduled hearing. Mr. Leonard Kaye appeared for claimant, County of Los Angeles. Ms. Susan Geanacou and Ms. Sarah Mangum appeared on behalf of the Department of Finance. At the hearing, testimony was given, the issue on reconsideration was submitted, and the vote was taken.

The Commission, by a 6-0 vote, adopted the staff analysis finding an error of law. On a separate motion, the Commission moved the staff recommendation, adopting the corrected decision, by a 6-0 vote.

### BACKGROUND

This test claim is filed on two statutes: Penal Code section 13730, as added in 1984 (Stats. 1984, ch. 1609) and amended in 1995 (Stats. 1995, ch. 965), and Family Code section 6228, as added in 1999 (Stats. 1999, ch. 1022).

In 1987, the Commission approved a test claim filed by the City of Madera on Penal Code section 13730, as added by Statutes 1984, chapter 1609, as a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution (*Domestic Violence Information*, CSM 4222). The parameters and guidelines for *Domestic Violence Information* authorized 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, pursuant to Government Code section 17581, suspended Penal Code section 13730, as added by Statutes 1984, chapter 1609. With the suspension, the Legislature assigned a zero-dollar appropriation to the mandate and made the program optional.

In 1995, the Legislature amended Penal Code section 13730, subdivision (c). (Stats. 1995, ch. 965.) As amended, Penal Code section 13730, subdivision (c)(1)(2), required law enforcement agencies to include in the domestic violence incident report additional information relating to the use of alcohol or controlled substances by the alleged abuser, and any prior domestic violence responses to the same address.

In February 1998, the Commission considered a test claim filed by the County of Los Angeles on the 1995 amendment to Penal Code section 13730 (*Domestic Violence Training and Incident Reporting*, CSM 96-362-01). The Commission concluded 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 itself optional, and 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 plain language of the suspension statute (Gov. Code, § 17581), the Commission determined, however, that during window periods when the state operates



without a budget, the original suspension of the mandate would not be in effect. Thus, the Commission concluded that for the limited window 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 activities required by the 1995 amendment to Penal Code section 13730 were reimbursable under article XIII B, section 6.

In 1998, Government Code section 17581 was amended to close the gap and continue the suspension of programs during window periods when the state operates without a budget.<sup>1</sup> In 2001, the California Supreme Court upheld Government Code section 17581 as constitutionally valid.<sup>2</sup> The Domestic Violence Information and Incident Reporting programs remained suspended in the 2002 Budget Act.<sup>3</sup>

### Test Claim Statutes

Penal Code section 13730, as added in 1984 and amended in 1995, requires local law enforcement agencies to develop and prepare domestic violence incident reports as specified by statute. Penal Code section 13730 states the following:

- (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 were 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.

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<sup>1</sup> Government Code 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 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* . . ." (Emphasis added.)

<sup>2</sup> *Carmel Valley Fire Protection District v. State of California* (2001) 25 Cal.4th 287, 297.

<sup>3</sup> Since the operative date of Family Code section 6228 (January 1, 2000), Penal Code section 13730, as originally added by Statutes 1984, chapter 1609, has been suspended by the Legislature pursuant to Government Code section 17581. The Budget Bills suspending Statutes 1984, chapter 1609, are as follows: Statutes 1999, chapter 50, Item 9210-295-0001, Schedule (8), Provision 2; Statutes 2000, chapter 52, Item 9210-295-0001, Schedule (8), Provision 3; Statutes 2001, chapter 106, Item 9210-295-0001, Schedule (8), Provision 3; and Statutes 2002, chapter 379, Item 9210-295,0001, Schedule (8), Provision 3.

The Governor's Proposed Budget for fiscal year 2003-04 proposes to continue the suspension of the domestic violence incident report.

- (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 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 has previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

Family Code section 6228 requires state and local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence upon request within a specified period of time. Family Code section 6228, as added in 1999, states the following:

- (a) State and local law enforcement agencies shall provide, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, upon request. For purposes of this section, "domestic violence" has the definition given in Section 6211.
- (b) A copy of a domestic violence incident report face sheet shall be made available during regular business hours to a victim of domestic violence no later than 48 hours after being requested by the victim, unless the state or local law enforcement agency informs the victim of the reasons why, for good cause, the domestic violence incident report face sheet is not available, in which case the domestic violence incident report face sheet shall be made available to the victim no later than five working days after the request is made.
- (c) A copy of the domestic violence incident report shall be made available during regular business hours to a victim of domestic violence no later than five working days after being requested by a victim, unless the state or local law enforcement agency informs the victim of the reasons why, for good cause, the domestic violence incident report is not available, in which case the domestic violence incident report shall be made available to the victim no later than 10 working days after the request is made.
- (d) Persons requesting copies under this section shall present state or local law enforcement with identification at the time a request is made.

- (e) This section shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incidence report.
- (f) This section shall be known, and may be cited, as the Access to Domestic Violence Reports Act of 1999.

According to the bill analysis prepared by the Assembly Judiciary Committee, section 6228 was added to the Family Code for the following reasons:

The author notes that victims of domestic violence do not have an expedited method of obtaining police reports under existing law. Currently, victims of domestic violence must write and request that copies of the reports be provided by mail. It often takes between two and three weeks to receive the reports. Such a delay can prejudice victims in their ability to present a case for a temporary restraining order under the Domestic Violence Prevention Act. This bill remedies that problem by requiring law enforcement agencies to provide a copy of the police report to the victim at the time the request is made if the victim personally appears.

The purpose of restraining and protective orders issued under the DVPA [Domestic Violence Prevention Act] is to prevent a recurrence of domestic violence and to ensure a period of separation of the persons involved in the violent situation. According to the author, in the absence of police reports, victims may have difficulty presenting the court with proof of a past act or acts of abuse and as a result may be denied a necessary restraining order which could serve to save a victim's life or prevent further abuse. By increasing the availability of police reports to victims, this bill improves the likelihood that victims of domestic violence will have the required evidence to secure a needed protective order against an abuser.

In addition to the lack of immediate access to copies of police reports, the author points to the cost of obtaining such copies. For example, in Los Angeles County the fee is \$13 per report. These fees become burdensome for victims who need to chronicle several incidents of domestic violence. For some the expense may prove prohibitive.

#### **Claimant's Position**

The claimant contends that the test claim legislation imposes a reimbursable state-mandated program upon local law enforcement agencies to prepare domestic violence incident reports, store the reports for five years, and retrieve and copy the reports upon request of the domestic violence victim. The claimant contends that it takes 30 minutes to prepare each report, 10 minutes to store each report, and 15 minutes to retrieve and copy each report upon request by the victim. The claimant states that from January 1, 2000, until June 30, 2000, the County prepared and stored 4,740 reports and retrieved 948 reports for victims of domestic violence. The claimant estimates costs during this six-month time period in the amount of \$181,228.

## Position of the Department of Finance

The Department of Finance filed comments on June 16, 2000, concluding that Family Code section 6228 results in costs mandated by the state. The Department further states that the nature and extent of the specific required activities can be addressed in the parameters and guidelines developed for the program.

## COMMISSION FINDINGS

A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.<sup>4</sup> In addition, the required activity or task must constitute a "new program" or create a "higher level of service" over the previously required level of service.<sup>5</sup> The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.<sup>6</sup> To determine if the program is new or imposes a higher level of service, the analysis must compare the test claim legislation with the legal requirements in effect immediately before the enactment of the test claim legislation.<sup>7</sup> Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>8</sup>

This test claim presents the following issues:

- Does the Commission have jurisdiction to retry the issue whether Penal Code section 13730 constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports?
- Is Family Code section 6228 subject to article XIII B, section 6 of the California Constitution?
- Does Family Code section 6228 mandate a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?
- Does Family Code section 6228 impose "costs mandated by the state" within the meaning of Government Code sections 17514?

These issues are addressed below.

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<sup>4</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

<sup>5</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>6</sup> *Id.*

<sup>7</sup> *Lucia Mar Unified School Dist., supra*, 44 Cal.3d 830, 835.

<sup>8</sup> Government Code section 17514; *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 1264, 1284.

**I. Does the Commission have jurisdiction to retry the issue whether Penal Code section 13730 constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports?**

The test claim filed by the claimant includes Penal Code section 13730, as added in 1984 and amended in 1995. The claimant acknowledges the Commission's prior final decisions on Penal Code section 13730, and acknowledges the Legislature's suspension of the program. Nevertheless, the claimant argues that Penal Code section 13730, as well as Family Code section 6228, constitute a reimbursable state-mandated program for the activity of preparing domestic violence incident reports. In comments to the draft staff analysis, the claimant argues as follows:

Penal Code section 13730 mandates that "domestic violence incident reports" be prepared. This mandate was found to be reimbursable by the Commission. [Footnote omitted.] Therefore, this reporting duty was new, not required under prior incident reporting law.

Now, "domestic violence incident reports" must be prepared and provided to domestic violence victims upon their request, without exception, in accordance with Family Code section 6228, and in accordance with Penal Code section 13730, as added by Chapter 1609, Statutes of 1984 and amended by Chapter 965, Statutes of 1995...<sup>9</sup>

The claimant further contends that "the duty to prepare and provide domestic violence incident reports to domestic violence victims was not made 'optional' under Government Code section 17581." (Emphasis in original)<sup>10</sup>

For the reasons provided below, the Commission finds that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.

It is a well-settled principle of law that an administrative agency does not have jurisdiction to retry a question that has become final. If a prior decision is retried by the agency, that decision is void. In *City and County of San Francisco v. Ang*, the court held that whenever a quasi-judicial agency is vested with the authority to decide a question, such decision, when made, is conclusive of the issues involved in the decision.<sup>11</sup>

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<sup>9</sup> Claimant's comments to draft staff analysis, pages 2-3.

<sup>10</sup> *Id.* at pages 4-6.

<sup>11</sup> *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 697; See also, *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407, where the court held that the civil service commission had no jurisdiction to retry a question and make a different finding at a later time; and *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143, where the court held that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once the decision becomes final.

These principles are consistent with the purpose behind the statutory scheme and procedures established by the Legislature in Government Code section 17500 and following, which implement article XIII B, section 6 of the California Constitution. As recognized by the California Supreme Court, Government Code section 17500 and following were established for the "express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created."<sup>12</sup>

Government Code section 17521 defines a test claim as follows: "'Test claim' means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state." Government Code section 17553, subdivision (b), requires the Commission to adopt procedures for accepting more than one claim on the same statute or executive order if the subsequent test claim is filed within 90 days of the first claim and consolidated with the first claim. Section 1183, subdivision (c), of the Commission's regulations allow the Commission to consider multiple test claims on the same statute or executive order only if the issues presented are different or the subsequent test claim is filed by a different type of local governmental entity.

Here, the issue presented in this test claim is the same as the issue presented in the prior test claim; i.e., whether preparing a domestic violence incident report is a reimbursable state-mandated activity under article XIII B, section 6 of the California Constitution. The Commission approved CSM 4222, *Domestic Violence Information*, and has authorized reimbursement in the parameters and guidelines for "writing" the domestic violence incident reports as an activity reasonably necessary to comply with the mandated program.<sup>13</sup> Moreover, this test claim was filed more than 90 days after the original test claims on Penal Code section 13730.

Accordingly, the Commission finds that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.

The remaining analysis addresses the claimant's request for reimbursement for compliance with Family Code section 6228.

## II. Is Family Code Section 6228 Subject to Article XIII B, Section 6 of the California Constitution?

In order for Family Code section 6228 to be subject to article XIII B, section 6 of the California Constitution, the statute must constitute a "program." The California Supreme Court, in the case of *County of Los Angeles v. State of California*<sup>14</sup>, defined the word "program" within the meaning of article XIII B, section 6 as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not

<sup>12</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 333.

<sup>13</sup> California Code of Regulations, title 2, section 1183.1, subdivision (a)(1)(4).

<sup>14</sup> *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger the applicability of article XIII B, section 6.<sup>15</sup>

The plain language of Family Code section 6228 requires local law enforcement agencies to provide, without charging a fee, one copy of the domestic violence incident report and/or face sheet to victims of domestic violence within a specified time period. As indicated above, the purpose of the legislation is to assist victims in supporting a case for a temporary restraining order against the accused.

The Commission finds that Family Code section 6228 qualifies as a program under article XIII B, section 6. As determined by the Second District Court of Appeal, police protection is a peculiarly governmental function.<sup>16</sup> The requirement to provide a copy of the incident report to the victim supports effective police protection in the area of domestic violence.<sup>17</sup> Moreover, the test claim statute imposes unique requirements on local law enforcement agencies that do not apply generally to all residents and entities in the state.

Accordingly, the Commission finds that Family Code section 6228 is subject to article XIII B, section 6 of the California Constitution.

### III. Does Family Code Section 6228 Mandate a New Program or Higher Level of Service on Local Law Enforcement Agencies?

The claimant alleges that Family Code section 6228 mandates a new program or higher level of service within the meaning of article XIII B, section 6, for the activities of preparing, storing, retrieving, and copying domestic violence incident reports upon request of the victim.

#### Family Code Section 6228 Does Not Mandate a New Program or Higher Level of Service on Local Law Enforcement Agencies to Prepare a Report or a Face Sheet

First, the plain language of Family Code section 6228 does not mandate or require local law enforcement agencies to prepare a domestic violence incident report or a face sheet. Rather, the express language of the statute states that local law enforcement agencies "shall *provide*, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, upon request." (Emphasis added.)

The claimant acknowledges that Family Code section 6228 does not expressly require the local agency to prepare a report. The claimant argues, however, that preparation of a

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<sup>15</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537.

<sup>16</sup> *Id.*

<sup>17</sup> *Ante*, pp. 6-7 (bill analysis of Assembly Judiciary Committee, dated September 10, 1999).

report under Family Code section 6228 is an "implied mandate" because, otherwise, victims would be requesting non-existent reports.<sup>18</sup> The Commission disagrees.

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

In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. We begin by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. [Citations omitted]<sup>19</sup>

In this regard, courts and administrative agencies may not disregard or enlarge the plain provisions of a statute, nor may they go beyond the meaning of the words used when the words are clear and unambiguous. Thus, courts and administrative agencies are prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.<sup>20</sup> This prohibition is based on the fact that the California Constitution vests the Legislature, and not the Commission, with policymaking authority. As a result, the Commission has been instructed by the courts to construe the meaning and effect of statutes analyzed under article XIII B, section 6 strictly:

A strict construction of section 6 is in keeping with the rules of constitutional interpretation, which require that constitutional limitations and restrictions on legislative power "are to be construed strictly, and are not to be extended to include matters not covered by the language used." ... "Under our form of government, policymaking authority is vested in the Legislature and neither arguments as to the wisdom of an enactment nor questions as to the motivation of the Legislature can serve to invalidate particular legislation." [Citations omitted.] Under these principles, there is no basis for applying section 6 as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding policies."<sup>21</sup>

Legislative history of Family Code section 6228 further supports the conclusion that the Legislature, through the test claim statute, did not require local agencies to prepare an incident report. Rather, legislative history indicates that local agencies were required under prior law to prepare an incident report. The analyses of the bill that enacted Family Code section 6228 all state that under prior law, a victim of domestic violence could

<sup>18</sup> Claimant's test claim filing, page 10; Claimant's comments on draft staff analysis, pages 1, 7-10.

<sup>19</sup> *Estate of Griswold* (2001) 25 Cal.4th 904, 910-911.

<sup>20</sup> *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757; *In re Rudy L.* (1994) 29 Cal.App.4th 1007, 1011.

<sup>21</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817.



request in writing that a copy of the report be provided by mail.<sup>22</sup> The analysis prepared by the Assembly Appropriations Committee dated September 1, 1999, further states that "[a]ccording to the California State Sheriff's Association, reports are currently available for distribution within 3-12 working days," and that "agencies currently charge a fee of \$5-\$15 per report."

Moreover, preparing a domestic violence incident report does not constitute a new program or higher level of service because preparation of the report is required under prior law. Penal Code section 13730, *as amended in 1993* (Stats. 1993, ch. 1230), added the requirement that "[a]ll domestic violence-related calls for assistance *shall be supported with a written incident report*, as described in subdivision (c), identifying the domestic violence incident." (Emphasis added.) The claimant did not include the 1993 amendment to Penal Code section 13730 in this test claim. In addition, the 1993 amendment to Penal Code section 13730 has not been included in the Legislature's suspension of Penal Code section 13730, as originally added in 1984, since neither the Legislature, the Commission, nor the courts, have made the determination that the 1993 statute constitutes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution.<sup>23</sup> Thus, the activity of preparing the domestic violence incident report is an activity currently required by prior law through the 1993 amendment to Penal Code section 13730.

Accordingly, the Commission finds that Family Code section 6228 does not mandate a new program or higher level of service on local agencies to prepare a domestic violence incident report or a face sheet and, thus, reimbursement is not required for this activity under article XIII B, section 6 of the California Constitution.

Family Code Section 6228 Does Not Impose a New Program or Higher Level of Service for the Activities of Providing, Retrieving, and Copying Information Related to a Domestic Violence Incident.

Family Code section 6228 expressly requires local law enforcement agencies to perform the following activities:

- Provide one copy of all domestic violence incident report face sheets to the victim, free of charge, within 48 hours after the request is made. If, however, the law enforcement agency informs the victim of the reasons why, for good cause, the face sheet is not available within that time frame, the law enforcement agency shall make the face sheet available to the victim no later than five working days after the request is made.

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<sup>22</sup> Bill Analysis of Assembly Judiciary Committee, dated September 10, 1999; Senate Floor Analysis dated September 8, 1999; Bill Analysis by the Assembly Appropriations Committee, dated September 1, 1999.

<sup>23</sup> Government Code section 17581, subdivision (a)(1), requires that the statute or executive order proposed for suspension must first be "determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution."

- Provide one copy of all domestic violence incident reports to the victim, free of charge, within five working days after the request is made. If, however, the law enforcement agency informs the victim of the reasons why, for good cause, the incident report is not available within that time frame, the law enforcement agency shall make the incident report available to the victim no later than ten working days after the request is made.
- The requirements in section 6228 shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incident report.

The Commission finds that the claimed activities of "retrieving" and "copying" information related to a domestic violence incident do not constitute a new program or higher level of service. Since 1981, Government Code section 6254, subdivision (f), of the California Public Records Act has required local law enforcement agencies to disclose and provide records of incidents reported to and responded by law enforcement agencies to the victims of an incident.<sup>24</sup> Government Code section 6254, subdivision (f), states in relevant part the following:

[S]tate and local law enforcement agencies shall disclose the names and addresses of the persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident . . . .

Except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation, law enforcement agencies are required to disclose and provide to the victim the following information:

- The full name and occupation of every individual arrested by the agency; the individual's physical description; the time and date of arrest; the factual circumstances surrounding the arrest; the time and manner of release or the location where the individual is currently being held; and all charges the individual is being held upon;<sup>25</sup> and
- The time, substance, and location of all complaints or requests for assistance received by the agency; the time and nature of the response; the time, date, and location of the occurrence; the time and date of the report; the name and age of the victim; the factual circumstances surrounding the crime or incident; and a general description of any injuries, property, or weapons involved.<sup>26</sup>

<sup>24</sup> Government Code section 6254 was added by Statutes 1981, chapter 684. Section 6254 was derived from former section 6254, which was originally added in 1968 (Stats. 1968, ch. 1473).

<sup>25</sup> Government Code section 6254, subdivision (f)(1).

<sup>26</sup> Government Code section 6254, subdivision (f)(2).

Although the general public is denied access to the information listed above, parties involved in an incident who have a proper interest in the subject matter are entitled to such records.<sup>27</sup> The disclosure of a domestic violence incident report under Government Code section 6254, subdivision (f), of the Public Records Act is proper.<sup>28</sup>

Furthermore, the information required to be disclosed to victims under Government Code section 6254, subdivision (f), satisfies the purpose of the test claim statute. As indicated in the legislative history, the purpose of the test claim statute is to assist victims of domestic violence in obtaining restraining and protective orders under the Domestic Violence Prevention Act. Pursuant to Family Code section 6300 of the Domestic Violence Prevention Act, a protective order may be issued to restrain any person for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved, if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse. The Commission finds that the disclosure of information describing the factual circumstances surrounding the incident pursuant to Government Code section 6254, subdivision (f), is evidence that can support a victim's request for a protective order under Family Code section 6300.

Finally, the Commission acknowledges that the requirements under the test claim statute and the requirements under the Public Records Act are different in two respects. First, unlike the test claim statute, the Public Records Act does not specifically mandate when law enforcement agencies are required to disclose the information to victims. Rather, Government Code section 6253, subdivision (b), requires the local agency to make the records "promptly available." Under the test claim statute, law enforcement agencies are required to provide the domestic violence incident report face sheets within 48 hours or, for good cause, no later than five working days from the date the request was made. The test claim statute further requires law enforcement agencies to provide the domestic violence incident report within five working days or, for good cause, no later than ten working days from the date the request was made. While the time requirement imposed by Family Code section 6228 is specific, the activities of providing, retrieving, and copying information related to a domestic violence incident are not new and, thus, do not constitute a new program or higher level of service.

Second, unlike the test claim statute, the Public Records Act authorizes local agencies to charge a fee "covering the direct costs of duplication of the documentation, or a statutory fee, if applicable."<sup>29</sup> The test claim statute, on the other hand, requires local law enforcement agencies to provide the information to victims free of charge.

Although the test claim statute may result in additional costs to local agencies because of the exclusion of the fee authority, those costs are not reimbursable under article XIII B, section 6. The California Supreme Court has ruled that evidence of additional costs alone does not automatically equate to a reimbursable state-mandated program under section 6.

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<sup>27</sup> *Vallejos v. California Highway Patrol* (1979) 89 Cal.App.3d 781, 786.

<sup>28</sup> *Baugh v. CBS, Inc.* (1993) 828 F.Supp. 745, 755.

<sup>29</sup> Government Code section 6253, subdivision (b).

Rather, the additional costs must result from a new program or higher level of service. In *County of Los Angeles v. State of California*, the Supreme Court stated:

If the Legislature had intended to continue to equate "increased level of service" with "additional costs," then the provision would be circular: "costs mandated by the state" are defined as "increased costs" due to an "increased level of service," which, in turn, would be defined as "additional costs." We decline to accept such an interpretation. Under the repealed provision, "additional costs" may have been deemed tantamount to an "increased level of service," but not under the post-1975 statutory scheme [after article XIII B, section 6 was adopted].<sup>30</sup>

The Supreme Court affirmed this principle in *Lucia Mar Unified School District v. Honig*:

We recognize that, as is made indisputably clear from the language of the constitutional provision, local entities are not entitled to reimbursement for all increased costs mandated by state law, but only those costs resulting from a new program or an increased level of service imposed upon them by the state.<sup>31</sup>

As indicated above, the state has not mandated a new program or higher level of service to provide, retrieve, and copy information relating to a domestic violence incident to the victim. Moreover, the First District Court of Appeal, in the *County of Sonoma* case, concluded that article XIII B, section 6 does not extend "to include concepts such as lost revenue."<sup>32, 33</sup>

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<sup>30</sup> *County of Los Angeles, supra*, 43 Cal.3d at pages 55-56.

<sup>31</sup> *Lucia Mar Unified School District v. Honig, supra*, 44 Cal.3d at page 835; see also, *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>32</sup> *County of Sonoma, supra*, 84 Cal.App.4th at page 1285.

<sup>33</sup> In comments to the draft staff analysis, the claimant cites analyses prepared by the Department of Finance, Legislative Counsel, and the Assembly Appropriations Committee on the test claim statute that indicate the lost revenues may be reimbursable to support its contention that Family Code section 6228 imposes a reimbursable state-mandated program (pp. 11-14).

But, these analyses are not determinative of the mandate issue. The statutory scheme in Government Code section 17500 et seq. contemplates that the Commission, as a quasi-judicial body, has the sole and exclusive authority to adjudicate whether a state mandate exists. (*City of San Jose, supra*, 45 Cal.App.4th 1802, 1817-1818; quoting *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, and *Kinlaw v. State of California, supra*, 54 Cal.3d at p. 333.) Moreover, as indicated in the analysis, the conclusion that the activities of providing, retrieving, and copying do not constitute a new program or higher level of service is supported by case law.

Accordingly, the Commission finds that the activities of providing, retrieving, and copying information related to a domestic violence incident do not constitute a new program or higher level of service.

Family Code Section 6228 Does Not Impose a New Program or Higher Level of Service for the Activity of Informing the Victim of the Reasons Why, For Good Cause, the Incident Report and Face Sheet are not Available within the Statutory Time Limits.

Family Code section 6228, subdivision (b), states that the domestic violence incident report face sheet shall be made available to a victim no later than 48 hours after the request, unless the law enforcement agency informs the victim of the reasons why, for good cause, the face sheet is not available within 48 hours. Under these circumstances, the law enforcement agency is required to provide the face sheet to the victim within five working days after the request is made.

Family Code section 6228, subdivision (c), contains a similar provision. Subdivision (c) states that the domestic violence incident report shall be made available to a victim no later than five working days after the request, unless the law enforcement agency informs the victim of the reasons why, for good cause, the incident report is not available within five working days. Under these circumstances, the law enforcement agency is required to provide the incident report to the victim within ten working days after the request is made.

The Commission finds that the activity of informing the victim of the reasons why, for good cause, the incident report and the face sheet are not available within the statutory time limits does not constitute a new program or higher level of service.

Since 1981, Government Code section 6253 of the Public Records Act has required law enforcement agencies to perform the same activity. Subdivision (c) of Government Code section 6253 states that each agency is required to determine whether a request for public records seeks copies of disclosable public records in the possession of the agency and notify the person making the request of the determination and the reasons of the determination within ten days of the request. Government Code section 6253, subdivision (c), further provides that the time limit may be extended if the agency notifies the person making the request, by written notice, of the reasons for the extension.<sup>34</sup>

Although the time limits defined in Government Code section 6253 and Family Code section 6228 are different, the activity of informing the victim of the reasons why, for good cause, the incident report and face sheet are not available within the statutory time limits is not new and, thus, does not constitute a new program or higher level of service.

Storing the Domestic Violence Incident Report and Face Sheet for Five Years Constitutes a New Program or Higher Level of Service.

Family Code section 6228, subdivision (e), states that the requirements in section 6228 shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incident report. The claimant contends that

<sup>34</sup> This activity derives from Government Code section 6256.1, which was added by Statutes 1981, chapter 968. In 1998, section 6256.1 was repealed and renumbered section 6253.

subdivision (e) imposes a new program or higher level of service on local law enforcement agencies to store the domestic violence incident report for five years. The County also argues that there is no law prior to the enactment of Family Code section 6228 that required local agencies to store domestic violence incident reports and face sheets in a readily accessible format.

For the reasons provided below, the Commission finds that Family Code section 6228, subdivision (e), imposes a new program or higher level of service on local law enforcement agencies to store the domestic violence incident report for three years only.

Before the enactment of the test claim statute, the Government Code imposed a two-year record retention requirement on local agencies. Government Code section 26202, which applies to counties, states in relevant part the following:

[T]he board may authorize the destruction or disposition of *any record, paper, or document which is more than two years old*, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the board determines by four-fifths (4/5) vote that the retention of any such record, paper, or document is no longer necessary or required for county purposes. Such records, papers or documents need not be photographed, reproduced or microfilmed prior to destruction and no copy thereof need be retained. (Emphasis added.)<sup>35</sup>

Government Code section 34090, which applies to cities, similarly states in relevant part the following:

Unless otherwise provided by law, with the approval of the legislative body by resolution and the written consent of the city attorney the head of a city department may *destroy any city record, document, instrument, book or paper*, under his charge, without making a copy thereof, after the same is no longer required.

*This section does not authorize destruction of:*

[¶] . . . [¶]

(d) *Records less than two years old*. . . (Emphasis added.)<sup>36</sup>

Criminal sanctions are imposed on the custodian of records pursuant to Government Code section 6200 if the records are destroyed. That section states the following:

Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

<sup>35</sup> Government Code section 26202 was last amended by Statutes 1963, chapter 1123.

<sup>36</sup> Government Code section 34090 was last amended by Statutes 1975, chapter 356.

- (a) Steal, remove, or secrete.
- (b) Destroy, mutilate, or deface.
- (c) Alter or falsify.

In 1981, the Attorney General's Office issued two opinions that defined the records required to be retained by cities pursuant to Government Code section 34090 and Government Code section 6200.<sup>37</sup> Government Code section 6200, which was originally enacted in 1943, imposes criminal sanctions on an official custodian of "any" public record who steals, destroys, or alters public documents. Section 6200 states the following:

Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

- (d) Steal, remove, or secrete.
- (e) Destroy, mutilate, or deface.
- (f) Alter or falsify.

Relying on case law authority, the Attorney General's Office determined that "records" within the meaning of Government Code sections 6200 and 34090 include *all* records that are required to be kept or were made or retained for the purpose of preserving its content for future use.

... a thing which constitutes an objective lasting indication of a writing, event or other information, which is in the custody of a public officer and is kept either (1) because a law requires it to be kept or (2) because it is necessary or convenient to the discharge of the public officer's duties and was made or retained for the purpose of preserving its informational content for future reference.<sup>38</sup>

Thus, if a document constitutes a record within this definition, it may not be destroyed except in accordance with the requirements of Government Code section 34090.<sup>39</sup>

Furthermore, the Commission disagrees with the County's assertion that Government Code section 34090 refers only to the destruction of records and does not impose a duty on agencies to maintain the records. The California Supreme Court in *People v. Memro*, a case addressing the discovery of personnel records of peace officers, found that Government Code section 34090 requires local agencies to *keep* public records for two years:

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<sup>37</sup> 64 Ops. Cal. Atty. Gen. 317 (1981); 64 Ops. Cal. Atty. Gen. 435 (1981).

<sup>38</sup> 64 Ops. Atty. Gen. 435, 437 (1981).

<sup>39</sup> *Ibid.*

Although the defendant calls the circumstances surrounding the records' destruction suspicious because the court's denial of the motion to discover them was a major focus of his appeal from the original judgment and the records were destroyed two months after oral argument in that appeal, the court could reasonably conclude that (1) the evidence showed the records were destroyed according to the provisions of the Government Code – indeed, they were *kept* for three years beyond the two-year period after which Government Code section 34090, subdivision (d), permitted their destruction . . . (Emphasis added.)<sup>40</sup>

Based on these authorities, the Commission finds that before the enactment of the test claim statute, cities were required by Government Code section 34090 to keep domestic violence incident reports for two years. Penal Code section 13730 (as amended by Stats. 1993, ch. 1230) required all law enforcement agencies to prepare the domestic violence incident report before the enactment of the test claim statute.<sup>41</sup> The domestic violence incident report qualifies as a "record" within the meaning of Government Code sections 6200 and 34090 since it is a document required to be kept by law enforcement agencies and was made or retained for the purpose of preserving its content for future use; i.e., possible future criminal investigation and prosecution.

The Commission further finds that counties were required by Government Code section 26202 to keep domestic violence incident reports for two years before the enactment of the test claim statute. The plain language of Government Code section 26202 prohibits counties from destroying records, required by state statute to be prepared, if they are less than two years old. As indicated above, Penal Code section 13730, as amended in 1993, required county law enforcement agencies to prepare the domestic violence incident report. Thus, when the test claim statute was enacted in 1999, counties could not destroy domestic violence incident reports that were less than two years old.

Moreover, the Commission finds that the interpretation by the court of the requirement to keep records pursuant Government Code section 34090 applies equally to Government Code section 26202. Under the rules of statutory construction, when similar words or phrases are used in two statutes they will be construed to have the same meaning.<sup>42</sup> Both Government Code section 26202 and section 34090 refer to "any record, paper, or document" and both prohibit the destruction of records, which are required to be kept by state statute, if they are less than two years old.

Finally, in 1976, the California Supreme Court held that an arrest record is a public record within the scope of Government Code section 6200.<sup>43</sup> Thus, unless otherwise provided by statute, arrest records are required to be kept and can only be destroyed in accordance with Government Code sections 26202 and 34090. The Commission finds that the same reasoning applies to domestic violence incident reports. Arrest records are

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<sup>40</sup> *People v. Memro* (1996) 11 Cal.4th 786, 831.

<sup>41</sup> See, pages 10-11, *ante*.

<sup>42</sup> *Hunstock v. Estate Development Corp.* (1943) 22 Cal.2d 205.

<sup>43</sup> *Loder v. Municipal Court* (1976) 17 Cal.3d 859, 863.



similar to incident reports because both documents are prepared by law enforcement agencies and are retained for the purpose of preserving evidence.

Accordingly, the Commission finds that storing the domestic violence incident report and face sheet for three years constitutes a new program or higher level of service.

Thus, the Commission must continue its inquiry to determine if storing the domestic violence incident report results in increased costs mandated by the state.

#### **IV. Does Family Code Section 6228 Impose Costs Mandated by the State Within the Meaning of Government Code Section 17514?**

Government Code section 17514 defines "costs mandated by the state" as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service. The claimant states that it incurred \$24,856 to store domestic violence incident reports from January 1, 2000, to June 30, 2000<sup>44</sup> and that none of the exceptions to finding a reimbursable state-mandated program under Government Code section 17556 apply here.

The Commission finds that the requirement to store domestic violence incident reports pursuant to Family Code section 6228, subdivision (e), results in costs mandated by the state under Government Code section 17514, and that none of the exceptions under Government Code section 17556 apply to this activity.

#### **CONCLUSION**

The Commission concludes that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandates a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposes costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for three years. (Fam. Code, § 6228, subd. (e).)

The Commission further concludes that it does not have jurisdiction to retry the issue whether Penal Code section 13730, as added in 1984 and amended in 1995, constitutes a reimbursable state-mandated program for the activity of preparing domestic violence incident reports.



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

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J. TYLER McCAULEY  
AUDITOR-CONTROLLER

December 12, 2003

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

**RECEIVED**

DEC 17 2003

**COMMISSION ON  
STATE MANDATES**

Dear Ms. Higashi:

**Revised Parameters and Guidelines [CSM 99-TC-08]  
Crime Victim's Domestic Violence Incident Reports**

The enclosed parameters and guidelines [Ps&Gs] reflect Commission's September 25, 2003 decision that pre-existing law required claimants to retain domestic violence records for two years prior to destruction. Accordingly, the Ps&Gs now limit reimbursement to costs in implementing a three year storage period, elapsing prior to the pre-existing two year record retention period.

As a result of our review of State agency comments, a new section [V.II.] has been added to provide a uniform allowance as an option in claiming reimbursement for storing domestic violence records for three years.

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

Very truly yours,

J. Tyler McCauley  
Auditor-Controller

JTM:JN:LK  
Enclosures

**Revised Parameters and Guidelines**  
**County of Los Angeles Test Claim [CSM 99-TC-08]**  
**Penal Code Section 13730 and Family Code Section 6228**  
**Statutes of 1984, Chapter 1609; Statutes of 1995,**  
**Chapter 965; Statutes of 1999, Chapter 1022**  
**Crime Victim's Domestic Violence Incident Reports**

**I. SUMMARY OF THE MANDATE**

Family Code section 6228, as added by Statutes of 1999, Chapter 1022, also known as the "Access to Domestic Violence Reports Act of 1999", requires local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence upon request, generally within 48 hours.

On April 24, 2003, the Commission on State Mandates [Commission] determined that only one of the provisions of the "Access to Domestic Violence Reports Act of 1999", as added by Statutes of 1999, Chapter 1022, mandated a new program or a higher level of service for local law enforcement agencies within the meaning of section 6, article XIIB of the California Constitution. Specifically, only those activities related to "storing domestic violence incident reports and face sheets for five years" pursuant to Family Code section 6228, subdivision (e) were deemed to be reimbursable "costs mandated by the State" as defined in Government Code Section 17514.

On September 25, 2003, the Commission corrected an error of law in its April 24, 2003 decision, now finding that pre-existing law already required claimants to retain records for two years prior to destruction. Accordingly, claimants are eligible to receive reimbursement only for costs in implementing a three year mandated storage period, elapsing prior to the pre-existing two year record retention period.

If the new three year storage requirement is made optional in the State's annual budget act pursuant to Government Code Section 17581, claimants shall retain

records for each year that Section 17581 is imposed, up until two years, the requirement under prior law.

Prior to the initial April 24, 2003 hearing of the matter, the claimant successfully amended the subject test claim to incorporate related changes to Family Code Section 6228 and Penal Code Section 13730 as a result of Chapter 377, Statutes of 2002, amending Section 6228 of the Family Code and Chapter 483, Statutes of 2001, amending Section 13730 of the Penal Code and, with respect to implementing Section 13730(c)(3) of the Penal Code, Section 12028.5 of the Penal Code as added and amended by Chapter 901, Statutes of 1984, Chapters 830 and 833, Statutes of 2002. This amendment has been severed and will be adjudicated separately as CSM 02-TC-18.

## **II. ELIGIBLE CLAIMANTS**

The eligible claimants are any county or city and county.

## **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557, subdivision (c), as amended by Statutes of 1998, Chapter 681 (effective September 22, 1998), 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 test claim for "Crime Victim's Domestic Violence Incident Reports" was filed by the County of Los Angeles on May 15, 2000, establishing eligibility for fiscal year 1998-99. However, the test claim statute was not in effect on July 1, 1998. Therefore, reimbursement claims may be filed for costs incurred pursuant to Statutes of 1999, Chapter 1022 on or after January 1, 2000 for the costs of storing domestic violence incident reports and face sheets for three years for domestic violence reports and face sheets completed after January 1, 2000 and on or after January 1, 1997 through December 31, 1999 for such storage costs of domestic violence reports and face sheets completed after January 1, 1997 through December 31, 1999.

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 section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial year's costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

Government Code Section 17564, subdivision (a), prior to its amendment by Statutes of 2002, Chapter 1124, an urgency statute, (effective September 30, 2002) provides that if the total costs for a given year do not exceed \$200, no reimbursement shall be allowed. Section 17564, subdivision (a) as amended by Statutes of 2002, Chapter 1124, provides that if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed. Therefore, for the 2002-03 fiscal year and subsequent claims, if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed.

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

For each eligible claimant, the following activities are eligible for reimbursement during the first three years of storage, unless made optional under Government Code Section 17581.

1. Develop policies and procedures for the storage of domestic violence incident reports and face sheets in a readily accessible format for five years.
2. Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.
3. Receive, log-in, microfiche [if applicable], or electronically image [if applicable], classify, file and lock-up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.
4. If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.
5. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for five years.
6. Train each staff person on methods and procedures for storing domestic violence reports and face sheets.
7. The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However,

reimbursement is limited to the pro rata share of costs of reimbursable activities [specified above].

## **V. CLAIM PREPARATION AND SUBMISSION**

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

### **A. Salaries and Benefits**

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

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

### **B. Materials and Supplies**

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

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

### **C. Contracted Services**

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

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

#### D. Fixed Assets and Equipment

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

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

#### E. Travel

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

#### F. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the

pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element V.A., Salaries and Benefits, and V.B., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element V.C., Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.

#### G. Indirect Cost Rates

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

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

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

II. Alternatively, actual costs may be claimed based on a uniform allowance per stored domestic violence report, including face sheet, per year. The uniform allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523 based on the 1997-98 base year allowance of \$1.00 per record per year.

The uniform allowance covers all the direct and indirect costs of performing the activities described in Section IV. I. [above]. Reimbursement is determined by multiplying the uniform allowance by the number of domestic violence reports,



including face sheets, by the number of reports stored during reimbursable storage periods.

## **VI. SUPPORTING DATA**

### **A. Source Documents**

For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

All documentation in support of claimed costs shall be made available to the State Controller or his/her agent, as may be requested.

### **B. Recordkeeping**

Pursuant to Government Code section 17558.5, subdivision (a), records must be retained for 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, and, accordingly, the required record retention period shall commence to run from the date of initial payment of the claim.

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

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

## **VIII. REQUIRED CERTIFICATION**

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein. If a claimant provides reimbursable services under contract or agreement on behalf of other eligible claimant jurisdiction(s), such services may be certified if included in claim(s) filed by the jurisdiction providing the reimbursable services.

## **IX. PARAMETERS AND GUIDELINES AMENDMENTS**

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2.



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

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

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

**County of Los Angeles – Revised Parameters and Guidelines**

**Penal Code Section 13730 as Added and Amended by: Chapter 1609, Statutes of 1984, Chapter 965, Statutes of 1985, Chapter 483, Statutes of 2001; Penal Code Section 12028.5 as Added and Amended by Chapter 901, Statutes of 1984, Chapters 830 and 833, Statutes of 2002; Family Code Section 6228 as Added and Amended by Chapter 1022, Statutes of 1999, Chapter 377, Statutes of 2002: Crime Victims' Domestic Violence Incident Reports [CSM 99-TC-08]**

**Declaration of Leonard Kaye**

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims and amendments thereto, reviews of State agency comments, Commission staff analyses, and for proposing, or commenting on, parameters and guidelines (Ps&Gs) and amendments thereto, and for filing incorrect reduction claims, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject revised Ps&Gs, attached hereto.

Specifically, I declare that, prior to my preparation of the subject revised Ps&Gs, I have met and conferred with staff of the Los Angeles County Sheriff's Department, including Commander Guninder Singh, responsible for implementing the subject storage requirements.

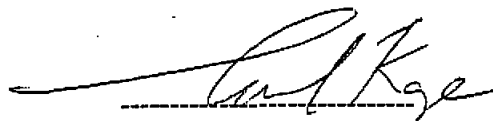
Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs as set forth in the attached document, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

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

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

12/12/03, Los Angeles, CA  
Date and Place

  
Signature

## Mailing List

Claim Number:

99-TC-08

ue:

Crime Victim's Domestic Violence Incident Reports

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

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Blvd., #307  
Sacramento, CA 95842

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

Mr. Keith Gmeinder, Principal Analyst  
Department of Finance  
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Sacramento, CA 95814

Mr. Allan Burdick  
MAXIMUS  
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Sacramento, CA 95841

Ms. Susan Geanacou, Senior Staff Attorney  
Department of Finance  
915 L Street, 11<sup>th</sup> Floor, Suite 1190  
Sacramento, CA 95814

Mr. Paul Minney,  
Sponsor, Middleton, Young & Minney, LLP  
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Sacramento, California 95825

Mr. Steve Smith, CEO  
Mandated Cost Systems  
11130 Sun Center Dr., Suite 100  
Rancho Cordova, California 95670

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

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

Ms. Annette Chinn,  
Cost Recovery Systems  
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Folsom, CA 95630

Mr. Michael Harvey, Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Ms. Cindy Sconce  
Centration, Inc.  
1<sup>st</sup> Tributary Pint Drive, Suite 140  
Golden River, California 95670

Mr. Mark Sigman, SB90 Coordinator  
Auditor-Controller's Office  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501

## Mailing List

**Claim Number:**

**99-TC-08**

**Issue:**

**Crime Victim's Domestic Violence Incident Reports**

Mr. J. Bradley Burgess

Public Resources Management Group

180 Lead Hill Boulevard, Suite # 106

Roseville, CA 95661



COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER

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

J. TYLER McCAULEY  
AUDITOR-CONTROLLER

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

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

That on the 12th day of December 2003, I served the attached:

Documents: Revised Parameters and Guidelines, Crime Victim's Domestic Violence Incident Reports, including a 1 page letter of J. Tyler McCauley dated 12/12/03, an eight page narrative, and a 1 page declaration of Leonard Kaye all pursuant to CSM-99-TC-08, now pending before the Commission on State Mandates.

upon all Interested Parties listed on the attachment hereto and by

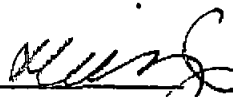
- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date. Commission on State Mandates FAX as well as mail of originals.
- by placing  true copies  original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
-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

PLEASE SEE ATTACHED MAILING LIST

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

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

Executed this 12th of December at Los Angeles, California.

  
\_\_\_\_\_  
Hasmik Yaghobyan





STEVE WESTLY  
California State Controller

October 24, 2003

Ms. Shirley Opie  
Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

RECEIVED

OCT 27 2003

COMMISSION ON  
STATE MANDATES

RE: DRAFT PARAMETERS AND GUIDELINES  
CRIME VICTIM'S DOMESTIC VIOLENCE INCIDENT REPORTS, 99-TC-08  
FAMILY CODE SECTION 6228  
STATUTES OF 1999, CHAPTER 1022

Dear Ms. Opie:

We have reviewed the draft Parameters and Guidelines (P's & G's) submitted by the County of Los Angeles for the above referenced subject matter. We recommend the Commission on State Mandates (Commission) review the P's & G's to ensure that all reimbursable components and offsetting savings issues are in accordance with the adopted Statement of Decision, and that the correct boilerplate language is used. In addition, listed below are some suggested amendments; additions are underlined, deletions have a strike-through.

I. SUMMARY OF THE MANDATE

"Family Code section 6228, as added by Statutes of 1999, Chapter 1022, also known as the "Access to Domestic Violence Reports Act of 1999", requires local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, or to his or her representative if the victim is deceased, upon request, generally within 48 hours. A copy of the domestic violence incident report face sheet shall be made available during regular business hours no later than 48 hours after being requested by the victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the domestic violence incident report face sheet is not available, in which case the domestic violence incident report face sheet shall be made available to the victim or his or her representative no later than five working days after the request is



made. A copy of the domestic violence incident report shall be made available during regular business hours no later than five working days after being requested by the victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the domestic violence incident report is not available, in which case the report shall be made available to the victim or his or her representative no later than 10 working days after the request is made.

Family Code section 6228 applies to requests made within five years from the date of completion of the domestic violence incidence report and face sheets. On the Corrected Statement of Decision adopted on September 25, 2003, the Commission found that prior to the enactment of this claim statute that cities and counties were required by Government Code (GC) sections 34090 and 26202 to keep domestic violence incident reports for two years.

On ~~April 24~~ September 25, 2003, the Commission determined that only one of the provisions of the "Access to Domestic Violence Reports Act of 1999", as added by Statutes of 1999, Chapter 1022, mandated a new program or a higher level of service for local law enforcement agencies within the meaning of section 6, article XIII B of the California Constitution. Specifically, only those activities related to "storing domestic violence incident reports and face sheets for ~~five~~ three years" pursuant to Family Code section 6228, subdivision (e) were deemed to be reimbursable "costs mandated by the State" as defined in GC section 17514.

- Corrections identified above are necessary to clearly describe the new mandated cost program.

### III. PERIOD OF REIMBURSEMENT

"Government Code section 17557, subdivision (c), as amended by Statutes of 1998, Chapter 681 (effective September 22, 1998), 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 test claim for "Crime Victim's Domestic Violence Incident Reports" was filed by the County of Los Angeles on May 15, 2000, establishing eligibility for fiscal year 1998-99. However, the test claim statute was not in effect on July 1, 1998. Therefore, reimbursement claims may be filed for costs incurred pursuant to Statutes of 1999, Chapter 1022 on or after January 1, 2000, for the costs of storing domestic violence incident reports and face sheets for five the third, fourth, and fifth years of storage ~~for domestic violence reports and face sheets completed after January 1, 2000 and on or after January 1, 1995 through December 31, 1999 for such storage costs of domestic violence reports and face sheets completed after January 1, 1995 through December 31, 1999.~~ ...

- Reimbursement should be for the period when the statute is in effect and for the third, fourth, and fifth years of storage only. The Commission found that cities and counties were required, before the enactment of the test claim statute, by GC sections 34090 and 26202, respectively, to keep domestic violence incident reports for two years.

“Government Code Section 17564, subdivision (a), prior to its amendment by Statutes of 2002, Chapter 1124, an urgency statute, (effective September 30, 2002) provides that if the total costs for a given year do not exceed \$200, no reimbursement shall be allowed. Section 17564, subdivision (a) as amended by Statutes of 2002, Chapter 1124, provides that if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed. Therefore, for the ~~2002-03 fiscal year and subsequent~~ claims submitted on or after September 30, 2002, if the total costs for a fiscal ~~given~~ year do not exceed \$1,000, no reimbursement shall be allowed.”

- GC section 17564, subdivision (a), states that no claims shall be made nor shall any payment be made on claims unless these claims exceed one thousand dollars (\$1,000). This section is not specific to any fiscal year.

#### IV. REIMBURSABLE ACTIVITIES

- ~~(1) Develop policies and procedures for the storage of domestic violence incident reports and face sheets in a readily accessible format for five years.~~
  - The Commission found that GC sections 34090 and 26202, prior to the enactment of the test claim statute, required cities and counties to keep domestic violence incident reports for two years. Therefore, any policies and procedures developed for the storage activity would be considered priors costs and are not reimbursable under this mandate.
- ~~(2) Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.~~

- The Commission found that GC sections 34090 and 26202, prior to the enactment of the test claim statute, required cities and counties to keep domestic violence incident reports for two years. Therefore, any itemizing, labeling, packaging, transferring, and shipping of domestic violence incident reports and face sheets for storage would be considered prior costs and are not reimbursable under this mandate.
- (3) ~~Receive, log in, microfiche [if applicable], or electronically image [if applicable], classify, file and lock up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.~~
- The Commission found that GC sections 34090 and 26202, prior to the enactment of the test claim statute, required cities and counties to keep domestic violence incident reports for two years. Therefore, the activities above would be considered prior costs and are not reimbursable under this mandate.
- (4) ~~If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.~~
- The Commission found that GC sections 34090 and 26202, prior to the enactment of the test claim statute, required cities and counties to keep domestic violence incident reports for two years. Therefore, the activities above would be considered prior costs and are not reimbursable under this mandate.
- (5) Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for five three years. The three years of reimbursable storage costs shall commence after the first two years of storage costs have been incurred. The first two years of storage costs are not reimbursable.
- The Commission found that GC sections 34090 and 26202, prior to the enactment of the test claim statute, required cities and counties to keep domestic violence incident reports for two years. Therefore, reimbursable storage costs are for three years, but after the initial two years of storage, costs have been incurred.
- (6) Train each staff person on methods and procedures for storing domestic violence reports and face sheets (limited to one-time training for each employee specifically assigned to reimbursable activities of the mandate).

- Training should be limited to one-time training for each employee specifically assigned to reimbursable activities of the mandate.

~~(7) The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However, reimbursement is limited to the pro rata share of costs of reimbursable activities [specified above].~~

- The Statement of Decision specifically approved only the activity of storing domestic violence incident reports and face sheets. It found that the activity of preparing a domestic violence incident report or a face sheet does not mandate a new program or higher level of service. Therefore, costs to create domestic violence incident reports and face sheets infringe on the preparation activity and are not reimbursable.

### VIII. REQUIRED CERTIFICATION

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein. If a claimant provides reimbursable services under contract or agreement on behalf of other eligible claimant jurisdiction(s), such services ~~may~~ are to be certified if included in claim(s) filed by the jurisdiction providing the reimbursable services.

We recommend that these changes be taken into consideration for further clarification of the subject components. If you have any questions, please call Ginny Brummels, Manager of the Local Reimbursements Section, at (916) 324-0256.

Sincerely,

  
 WALTER BARNES  
 Deputy Chief Controller, Finance

WB:JAK:glb

cc: Interested parties

## PROOF OF SERVICE BY MAIL

CSM – 99-TC-08

I, the undersigned, declare as follows:

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

On October 24, 2003, I served the attached recommendation of the State Controller's Office by placing a true copy thereof enclosed in a sealed envelope addressed to each of the persons named below at the addresses shown and by depositing said envelopes in the United States mail at Sacramento, California, with postage thereon fully prepaid.

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Blvd., #307  
Sacramento, CA 95842

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

Mr. Bradley Burgess  
Public Resource Management Group  
1380 Lead Hill Blvd., Suite 106  
Roseville, CA 95661

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

Ms. Susan Geanacou  
Senior Staff Attorney  
Department of Finance  
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Sacramento, CA 95814

Mr. Keith Gmeinder  
Department of Finance (A-15)  
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Sacramento, CA 95814

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State Controller's Office  
Division of Accounting & Reporting  
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Sacramento, CA 95816

Mr. Leonard Kaye, Esq.  
County of Los Angeles  
Auditor-Controller's Office  
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Los Angeles, CA 90012

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Sacramento, CA 95825

Ms. Cindy Sconce  
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Gold River, CA 95670

Mr. Mark Sigman  
Riverside County Sherriff's Office  
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Mr. Jim Spano  
State Controller's Office  
Division of Audits  
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Sacramento, CA 95814

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

Mr. Steve Smith, CEO  
Mandated Cost Systems  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

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

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

Executed on October 24, 2003, at Sacramento, California.



Glenn Holderbein





DEPARTMENT OF  
**FINANCE**

GRAY DAVIS, GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

**RECEIVED**

November 14, 2003

NOV 18 2003

**COMMISSION ON  
STATE MANDATES**

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

Dear Ms. Higashi:

In our review of the proposed parameters and guidelines (P's & G's) for the reimbursement of costs mandated by Chapter No. 1022, Statutes of 1999, (AB 403, Romero), "Crime Victim's Domestic Violence Incident Reports", CSM-99-TC-08, which were submitted by Los Angeles County, we suggest a few amendments to the P's & G's. The amendments relate to the period of reimbursement and reimbursable activities as defined in the P's & G's.

Period of Reimbursement

The Commission on State Mandates (Commission) ruled that the period of reimbursement should be for the period when the statute is in effect and for the third, fourth and fifth years of storage only. Prior to the enactment of this test claim the Commission found that cities and counties were required by Government Code Sections 34090 and 26202 to keep domestic violence incident reports for two years. We recommend that the P's & G's on Page 2 be changed to read:

"Therefore, reimbursement claims may be filed for costs incurred pursuant to Statutes of 1999, Chapter 1022 on or after January 1, 2000, for the costs of storing domestic violence incident reports and face sheets for five the third, fourth, and fifth years of the storage process for ~~domestic violence reports and face sheets completed on or after January 1, 1995 through December 31, 1999 for such storage costs of domestic violence reports and face sheets completed on or after January 1, 1995 through December 31, 1999.~~"

Reimbursable Activities

~~(1) Develop policies and procedures for the storage of domestic violence incident reports and face sheets in a readily accessible format for five years.~~

Prior to the enactment of this test claim statute, the Commission agreed that Government Code sections 34090 and 26202 required cities and counties to keep domestic violence incident reports for two years. Therefore, any policies and procedures developed for the storage activity would be considered prior costs and should not be reimbursed.



Paula Higashi  
Page 2  
November 14, 2003

~~(2) Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in a readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.~~

Prior to the enactment of this test claim statute, the Commission agreed that Government Code sections 34090 and 26202 required cities and counties to keep domestic violence incident reports for two years. Therefore, the activities listed above for the storage of domestic violence incident reports would be considered prior costs and should not be reimbursed.

~~(3) Receive, log in, microfiche [if applicable], or electronically image [if applicable], classify, file and lock up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.~~

Prior to the enactment of this test claim statute, the Commission agreed that Government Code sections 34090 and 26202 required cities and counties to keep domestic violence incident reports for two years. Therefore, the activities listed above for the storage of domestic violence incident reports would be considered prior costs and should not be reimbursed.

~~(4) If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.~~

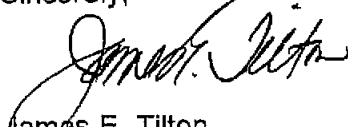
Prior to the enactment of this test claim statute, the Commission agreed that Government Code sections 34090 and 26202 required cities and counties to keep domestic violence incident reports for two years. Therefore, the activities listed above for the storage of domestic violence incident reports would be considered prior costs and should not be reimbursed.

~~(7) The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However, reimbursement is limited to the pro-rata share of costs of reimbursable activities [specified above].~~

The Statement of Decision approved only activities related to the storing of domestic violence incident reports. Therefore, any activity associated with creating domestic violence reports and face sheets does not constitute a new program or higher level of service and should not be reimbursed.

If you have any questions regarding this letter, please contact Zlatko Theodorovic, Principal Program Budget Analyst, or Keith Gmeinder, state mandates claims coordinator for the Department of Finance, at (916) 445-8913

Sincerely,

  
James E. Tilton  
Program Budget Manager

Attachments

PROOF OF SERVICE

Test Claim Name: "Crime Victim's Domestic Violence Incident Reports"  
Test Claim Number: CSM-99-TC-08

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, 8th Floor, Sacramento, CA 95814.

On November 14, 2003, 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, 8th Floor, for Interagency Mail Service, addressed as follows:

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

B-8  
State Controller's Office  
Division of Accounting & Reporting  
Attention: Michael Havey  
3301 C Street, Room 500  
Sacramento, CA 95816

B-29  
Legislative Analyst's Office  
Attention: Marianne O'Malley  
925 L Street, Suite 1000  
Sacramento, CA 95814

MAXIMUS  
Attention: Allan Burdick  
4320 Auburn Boulevard, Suite 200  
Sacramento, CA 95841

County of Los Angeles  
Auditor-Controller's Office  
Attention: Leonard Kaye  
500 West Temple Street, Room 603  
Los Angeles, CA 90012

Mr. Steve Smith, CEO  
Mandated Cost Systems  
2275 Watt Ave, Ste C  
Sacramento, CA 95825

Wellhouse and Associates  
Attention: David Wellhouse  
9175 Kiefer Boulevard, Suite 121  
Sacramento, CA 95826

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

Mr. Mark Sigman  
Riverside County Sheriff's Office  
P.O. Box 512  
Riverside, CA 92502

Ms. Cindy Sconce  
Centration, Inc.  
12150 Tributary Point Drive, Suite 140  
Gold River, CA 95670

Mr. Hameet Barkschat  
Mandate Resource Services  
5325 Elkhorn Blvd. #307  
Sacramento, CA 95842

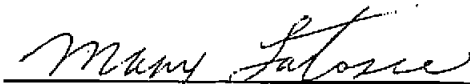
Ms, Annette Chin  
Cost Recovery Systems  
705-2 East Bidwell Street, #294  
Folsom, CA 95630

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

B-8  
State Controller's Office  
Division of Audits  
Attention: Jim Spano  
300 Capital Mall, Suite 518  
Sacramento, CA 95814

Mr. Bradley Burgess  
Public Resource Management Group  
1380 Lead Hill Boulevard, Suite #106  
Roseville, CA 95661

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 November 14, 2003 at Sacramento, California.

  
\_\_\_\_\_  
Mary Latorre

**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
T: (916) 323-3662  
F: (916) 445-0278  
E-mail: csmInfo@csm.ca.gov



March 26, 2004

Mr. Leonard Kaye  
SB 90 Coordinator  
County of Los Angeles  
500 West Temple Street, Room 603  
Los Angeles, CA 90012

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

**Re: Draft Staff Analysis and Proposed Parameters and Guidelines**  
*Crime Victim's Domestic Violence Incident Reports, 99-TC-08*  
Los Angeles County, Claimant  
Family Code Section 6228  
Statutes 1999, Chapter 1022

Dear Mr. Kaye:

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

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis and proposed parameters and guidelines by **April 15, 2004**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties and to be accompanied by a proof of service. If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Hearing**

This matter is tentatively set for hearing on **May 27, 2004** at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Special Accommodations**

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

If you have any questions, please contact Cathy Cruz at (916) 323-8218.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Patton".

NANCY PATTON  
Assistant Executive Director

Enclosures

MAILED: 3/26/07  
FAXED: VS  
DATE: INITIAL  
CHRON: FILE  
WORKING BINDER:

ITEM \_\_\_\_

**DRAFT STAFF ANALYSIS  
PROPOSED PARAMETERS AND GUIDELINES,  
AS MODIFIED BY STAFF**

Family Code Section 6228

Statutes 1999, Chapter 1022

*Crime Victim's Domestic Violence Incident Reports (99-TC-08)*

County of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

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

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## STAFF ANALYSIS

### Claimant

County of Los Angeles

### Chronology

05/29/03 Commission on State Mandates (Commission) adopted Statement of Decision  
06/13/03 Claimant submitted its proposed parameters and guidelines  
09/25/03 Commission adopted a corrected Statement of Decision  
10/27/03 The State Controller's Office (SCO) submitted comments  
11/14/03 The Department of Finance (DOF) submitted comments  
12/17/03 Claimant submitted its revised proposed parameters and guidelines  
03/26/04 Draft staff analysis issued

### Summary of the Mandate

On September 25, 2003, the Commission adopted a corrected Statement of Decision<sup>1</sup> finding that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for three years.  
(Fam. Code, § 6228, subd. (e).)

The Commission further found that under prior law, cities and counties were already required to keep the domestic violence incident reports for two years.

### Discussion

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

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

#### *III. Period of Reimbursement*

Since the Commission found that prior law already required cities and counties to keep the domestic violence incident reports for two years, the SCO and DOF recommended the addition of language to clarify that only those costs incurred for storing domestic violence incident reports and face sheets for the third, fourth, and fifth years of storage are reimbursable on or after January 1, 2000. Staff made the modification accordingly.

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<sup>1</sup> Exhibit A.



#### *IV. Reimbursable Activities*

##### Claimant's Proposal

On December 17, 2003, the claimant submitted its revised proposed parameters and guidelines,<sup>2</sup> which included the following activities as eligible for reimbursement:

1. Develop policies and procedures for the storage of domestic violence incident reports and face sheets in a readily accessible format for five years.
2. Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.
3. Receive, log-in, microfiche [if applicable], or electronically image [if applicable], classify, file and lock-up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.
4. If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.
5. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for five years.
6. Train each staff person on methods and procedures for storing domestic violence reports and face sheets.
7. The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However, reimbursement is limited to the pro rata share of costs of reimbursable activities [specified above].

##### State Controller's Office Comments

In its comments dated October 24, 2003,<sup>3</sup> the SCO recommended that the claimant's proposed activities 1, 2, 3, 4, and 7 be deleted because the Commission found that prior law already required cities and counties to keep the domestic violence incident reports for two years. Therefore, these activities are not reimbursable under this mandate.

Also, the SCO suggested the addition of limiting language to the claimant's proposed activities 5 and 6. Specifically, the SCO stated that proposed activity 5 should be limited to only three years of storage costs, which commences after the initial two years of costs are incurred, and proposed activity 6 should be limited to one-time training for each employee.

##### Department of Finance's Comments

In its comments dated November 14, 2003,<sup>4</sup> DOF also recommended that the claimant's proposed activities 1, 2, 3, 4, and 7 be deleted because the Commission found that prior law

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<sup>2</sup> Exhibit B.

<sup>3</sup> Exhibit C.

<sup>4</sup> Exhibit D.

already required cities and counties to keep the domestic violence incident reports for two years. Therefore, these activities are not reimbursable under this mandate.

### **Staff Finding and Proposal**

This program requires that the domestic violence incident reports and face sheets be stored for an additional three years. The Commission found that cities and counties were already required to keep these documents for two years under prior law. Accordingly, any activities that flow from this previous requirement are not reasonably necessary to carry out this mandate. Such activities include the claimant's proposed activities 2, 3, 4, 6, and 7.

As to the proposed activity for developing policies and procedures, staff agrees with the SCO and DOF that this activity would also fall under those that flow from the prior law requirement. However, staff finds that it is reasonably necessary to revise any existing policies and procedures regarding the storage of domestic violence incident reports and face sheets in a readily accessible format to include the additional three-year requirement. Staff limited this to a one-time activity.

Also, staff limited the proposed activity to store domestic violence incident reports and face sheets to the cost of retaining the documents in a readily accessible format, including file storage, for the three-year period of time after the mandatory two-year retention period provided in Government Code sections 26202 and 34090.

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

The claimant included in its proposal a provision providing that actual costs may be claimed based on a uniform allowance per stored domestic violence report, including the face sheet, per year. The claimant states that the proposed uniform allowance of \$1.00 per record per year was based on the 1997-1998 base year allowance.

Staff finds that there is no written evidence in the record to substantiate the claimant's proposal. Therefore, staff revised the proposed parameters and guidelines to require that only actual costs, as defined in section IV, be claimed. A uniform allowance will only be considered if the proposal is substantiated by a valid time study.

Further, since there is no evidence in the record that travel is required for the purpose of the reimbursable activities, staff did not include it as a direct cost that is eligible for reimbursement.

### ***VIII. State Controller's Claiming Instructions***

This section previously contained language regarding the certification the SCO requires when local agencies and school districts submit reimbursement claims. On January 23, 2002, the Commission determined that it is not authorized to include certification requirements in the parameters and guidelines. Instead, the SCO is authorized to include such requirements in their claiming instructions. Therefore, this section was revised to detail the statutory requirements for issuing claiming instructions. The revised language conforms to language recently adopted by the Commission.

### **Staff Recommendation**

Staff recommends that the Commission adopt staff's proposed parameters and guidelines, beginning on page 7.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.



**PROPOSED PARAMETERS AND GUIDELINES,  
AS MODIFIED BY STAFF**

Penal Code Section 13730

Family Code Section 6228

Statutes 1984, Chapter 1609

Statutes 1995, Chapter 965

Statutes 1999, Chapter 1022

*Crime Victim's Domestic Violence Incident Reports (99-TC-08)*

County of Los Angeles, Claimant

**I. SUMMARY OF THE MANDATE**

On September 25, 2003, the Commission on State Mandates (Commission) adopted a corrected Statement of Decision finding that Family Code section 6228, as added by Statutes 1999, chapter 1022, mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514 for the following activity only:

- Storing domestic violence incident reports and face sheets for three years. (Fam. Code, § 6228, subd. (e).)

The Commission further found that under prior law, cities and counties were already required to keep the domestic violence incident reports for two years.

~~Family Code section 6228, as added by Statutes of 1999, Chapter 1022, also known as the "Access to Domestic Violence Reports Act of 1999", requires local law enforcement agencies to provide, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence upon request, generally within 48 hours.~~

~~On April 24, 2003, the Commission on State Mandates [Commission] determined that only one of the provisions of the "Access to Domestic Violence Reports Act of 1999", as added by Statutes of 1999, Chapter 1022, mandated a new program or a higher level of service for local law enforcement agencies within the meaning of section 6, article XIII B of the California Constitution. Specifically, only those activities related to "storing domestic violence incident reports and face sheets for five years" pursuant to Family Code section 6228, subdivision (e) were deemed to be reimbursable "costs mandated by the State" as defined in Government Code Section 17514.~~

~~On September 25, 2003, the Commission corrected an error of law in its April 24, 2003 decision, now finding that pre-existing law already required claimants to retain records for two years prior to destruction. Accordingly, claimants are eligible to receive reimbursement only for costs in~~

~~implementing a three year mandated storage period, elapsing prior to the pre-existing two year record retention period.~~

~~If the new three year storage requirement is made optional in the State's annual budget act pursuant to Government Code Section 17581, claimants shall retain records for each year that Section 17581 is imposed, up until two years, the requirement under prior law.~~

~~Prior to the initial April 24, 2003 hearing of the matter, the claimant successfully amended the subject test claim to incorporate related changes to Family Code Section 6228 and Penal Code Section 13730 as a result of Chapter 377, Statutes of 2002, amending Section 6228 of the Family Code and Chapter 483, Statutes of 2001, amending Section 13730 of the Penal Code and, with respect to implementing Section 13730(e)(3) of the Penal Code, Section 12028.5 of the Penal Code as added and amended by Chapter 901, Statutes of 1984, Chapters 830 and 833, Statutes of 2002. This amendment has been severed and will be adjudicated separately as CSM 02 TC 18.~~

## II. ELIGIBLE CLAIMANTS

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

## III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (c), as amended by Statutes of 1998, Chapter 681 (effective September 22, 1998), 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 test claim for "Crime Victim's Domestic Violence Incident Reports" was filed by the County of Los Angeles filed the test claim on May 15, 2000; establishing eligibility for fiscal year 1998-1999. However, the test claim statute was not in effect on July 1, 1998 effective and operative date of Family Code section 6228 is January 1, 2000. Therefore, reimbursement claims may be filed for costs incurred for storing domestic violence incident reports and face sheets for the additional three years pursuant to Family Code section 6228, as added by Statutes of 1999, Chapter 1022, are reimbursable on or after January 1, 2000, for the costs of storing domestic violence incident reports and face sheets for three years for domestic violence reports and face sheets completed after January 1, 2000 and on or after January 1, 1997 through December 31, 1999 for such storage costs of domestic violence reports and face sheets completed after January 1, 1997 through December 31, 1999.~~

~~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) of the Government Code, all claims for reimbursement of initial fiscal year's costs shall be submitted within 120 days of notification by to the State Controller of the issuance within 120 days of the issuance date for the claiming instructions.~~

~~Government Code Section 17564, subdivision (a), prior to its amendment by Statutes of 2002, Chapter 1124, an urgency statute, (effective September 30, 2002) provides that if the total costs for a given year do not exceed \$200, no reimbursement shall be allowed. Section 17564, subdivision (a) as amended by Statutes of 2002, Chapter 1124, provides that if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed. Therefore, for the 2002-~~

03 fiscal year and subsequent claims, if the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed.

If the total costs for a given fiscal year do not exceed \$1000, 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, 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:

For each eligible claimant, the following activities are eligible for reimbursement during the first three years of storage, unless made optional under Government Code Section 17581:

##### A. One-Time Activity

1. Develop/Revise existing policies and procedures for regarding the storage of domestic violence incident reports and face sheets in a readily accessible format for five years to include the *additional* three-year requirement.

##### B. Ongoing Activities

1. Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for an *additional* three years. This is limited to the cost of retaining domestic violence incident reports and face sheets in a readily accessible format, including file storage, for the three-year period of time after the mandatory two-year retention period provided in Government Code sections 26202 and 34090.
2. Itemize, label, package, transfer and ship domestic violence incident reports and face sheets for storage in readily accessible hard copy format, or for storage in a readily accessible microfilm format, or for storage in an electronic image format.

3. ~~Receive, log in, microfiche [if applicable], or electronically image [if applicable], classify, file and look up or secure [access to], in a readily accessible format, domestic violence incident reports and face sheets.~~
4. ~~If a microfiche system is used, check each frame for completeness and clarity and reprocess deficient records.~~
5. ~~Store domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format for five years.~~
6. ~~Train each staff person on methods and procedures for storing domestic violence reports and face sheets.~~
7. ~~The use of specialized software, hardware or contract services to create domestic violence incident reports and face sheets in a readily accessible hard copy, microfiche, or electronic image format is reimbursable. However, reimbursement is limited to the pro rata share of costs of reimbursable activities [specified above].~~

## V. CLAIM PREPARATION AND SUBMISSION

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

### A. Direct Cost Reporting

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

#### 1. Salaries and Benefits

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

#### 2. Materials and Supplies

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

#### 3. Contracted Services

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

contract consultant and attorney invoices with the claim and a description of the contract scope of services.

#### 4. Fixed Assets and Equipment

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

#### B. Indirect Cost Rates

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

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

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

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

~~A. Salaries and Benefits~~

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

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

~~B. Materials and Supplies~~

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

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

~~C. Contracted Services~~

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

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

~~D. Fixed Assets and Equipment~~

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

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

#### ~~E. Travel~~

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

#### ~~F. Training~~

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

#### ~~G. Indirect Cost Rates~~

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

~~Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A87. Claimants have the option of using 10% of labor, excluding fringe benefits, or, where applicable, 10% of the amount of reimbursable contract(s), if 50% or more of all reimbursable services are provided under contract, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.~~

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

~~II. Alternatively, actual costs may be claimed based on a uniform allowance per stored domestic violence report, including face sheet, per year. The uniform allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523 based on the 1997-98 base year allowance of \$1.00 per record per year.~~

~~The uniform allowance covers all the direct and indirect costs of performing the activities described in Section IV. I. [above]. Reimbursement is determined by multiplying the uniform allowance by the number of domestic violence reports, including face sheets, by the number of reports stored during reimbursable storage periods.~~

## ~~VI. SUPPORTING DATA~~

### ~~A. Source Documents~~

~~For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with, local, state, and federal government requirements.~~

~~All documentation in support of claimed costs shall be made available to the State Controller or his/her agent, as may be requested.~~

### ~~B. Recordkeeping~~

~~Pursuant to Government Code section 1755-8.5, subdivision (a),<sup>1</sup> records must be retained for 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, and, accordingly, the required record retention period shall commence to run from the date of initial payment of the claim.~~

## VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

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

## VIII. REQUIRED CERTIFICATION

~~An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein. If a claimant provides reimbursable services under contract or agreement~~

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

~~on behalf of other eligible claimant jurisdiction(s), such services may be certified if included in claim(s) filed by the jurisdiction providing the reimbursable services.~~

### VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

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

### IX. ~~PARAMETERS AND GUIDELINES AMENDMENTS~~

~~Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2.~~

### 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 (a), 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.

# Commission on State Mandates

Original List Date: 5/18/2000  
Last Updated: 3/12/2004  
List Print Date: 03/26/2004  
Claim Number: 99-TC-08  
Issue: Crime Victims' Domestic Violence Incident Reports

Mailing Information: Draft Staff Analysis

## Mailing List

### Related

02-TC-18 Crime Victims' Domestic Violence Incident Reports

### 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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**Claimant**  
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Fax: (916) 351-1020





J. TYLER MCCAULEY  
AUDITOR-CONTROLLER

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

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

April 14, 2004

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

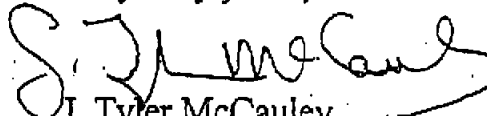
Dear Ms. Higashi:

**Los Angeles County's Review  
Commission Staff's Parameters & Guidelines  
Crime Victim's Domestic Violence Incident Reports [CSM 99-TC-08]**

The County of Los Angeles submits the subject review.

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

Very truly yours,

  
J. Tyler McCauley  
Auditor-Controller

JTM:JN:LK  
Enclosures

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



**Los Angeles County's Review  
Commission Staff's Parameters & Guidelines  
Crime Victim's Domestic Violence Incident Reports [CSM 99-TC-08]**

On September 25, 2003, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that Family Code Section 6228, as added by Chapter 1022 of the Statutes of 1999 mandated a new program or higher level of service for local law enforcement agencies within the meaning of article XIIB, Section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code Section 17514 upon the County of Los Angeles [County].

On December 17, 2003, the County filed proposed parameters and guidelines [Ps&Gs] for the Crime Victim's Domestic Violence Incident Reports program, including two methods of claiming report storage costs:

1. Actual costs
2. Unit cost

On March 26, 2004, Commission staff proposed their version of the Ps&Gs which did not include a unit cost allowance for required storage tasks.

Under staff's proposed P&Gs, claimants would be required to identify 'actual' labor, equipment and fixed asset costs associated with meeting these new state-mandated storage duties. As such duties are small, repetitive and included among other storage duties, claiming 'actual' costs would be unduly burdensome considering the small amounts that could be claimed for this activity.

Therefore, a small unit cost allowance would avoid unnecessary and expensive cost-finding and claim preparation activities.

Further, a small unit cost allowance would avoid unnecessary and expensive audits as a small agreed-upon amount would be reimbursed claimants.

If the specific unit rate proposed by the County [of \$1 per record per year] is in dispute, the County would be pleased to request a pre-hearing conference in order that local jurisdictions as well as State agencies may be polled on the matter.

Accordingly, it is recommended that Commission staff reconsider its position on the matter and permit unit cost reimbursement --- or, at least, poll other interested parties at a pre-hearing conference.



COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER

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PHONE: (213) 974-8301 FAX: (213) 626-5427

TYLER McCAULEY  
DITOR-CONTROLLER

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

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

That on the 15<sup>th</sup> day of April 2004, I served the attached:

Documents: Los Angeles County's Review, Commission Staff's Parameters and Guidelines, Crime Victim's Domestic Violence Incident Reports, including a 1 page letter of J. Tyler McCauley dated 4/14/04 and a 1 page narrative, all pursuant to CSM-99-7C-08, now pending before the Commission on State Mandates.

upon all Interested Parties listed on the attachment hereto and by

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

**PLEASE SEE ATTACHED MAILING LIST**

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

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

Executed this 15th day of April, 2004, at Los Angeles, California.

*Handwritten signature of Hasmik Yaghobyan*  
Hasmik Yaghobyan

Post-It <sup>®</sup> Fax Note	7671	Date	4/15/04	# of pages	5
To	Pamela Higanti	From	Leonard Kage		
Co./Dept	CSM	Co.			
Phone #		Phone #	213-974-8564		
Fax #	916-445-0278	Fax #			

## Mailing List

Claim Number:

99-TG-08

Issue:

Crime Victim's Domestic Violence Incident Reports

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Ms. Paula Higashi ← *Original with mail*  
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Commission on State Mandates  
980 Ninth Street, Suite 300  
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State Controller's Office  
Division of Audits  
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Mr. Bradley Burgess  
Public Resources Management Group  
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J. TYLER MCCAULEY  
AUDITOR-CONTROLLER

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

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
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PHONE: (213) 874-8301 FAX: (213) 626-6427

April 27, 2004

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

Dear Ms. Higashi:

**Los Angeles County's Supplement  
Parameters & Guidelines – Minimal Unit Costs  
Crime Victim's Domestic Violence Incident Reports [CSM 99-TC-08]**

As requested by Commission staff, we are submitting additional fiscal information, including a schedule of minimal unit costs and a supporting declaration.

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

Very truly yours,

*John Naimo* FOR  
J. Tyler McCauley  
Auditor-Controller

JTM:JN:LK  
Enclosures

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

**Los Angeles County's Parameters & Guidelines Supplement  
Domestic Violence Incident Reports - Minimal Unit Costs  
Annual Storage Costs Per Report [e]**

Space/Retention Cost	\$1.05 [a]
Storage Box/File Cost	\$0.04 [b]
Storage Box Barcode/ID Cost	\$0.03 [c]
Storage Box Delivery Cost	\$0.03 [d]
<b>Total</b>	<b><u>\$1.15</u></b>

Footnotes

[a] Per attached "File-Keepers Price Schedule", "Monthly Retention Charges" for "Legal Size Transfer Case" is \$1.05 x 12 months = \$12.60. On average, 12 reports or records per case: \$ 12.60/12 = \$1.05 per record per year.

[b] Per attached "File-Keepers Price Schedule", "Carton" cost of \$2.60 is a required storage cost. \$2.60/12 records = \$. 22 per record. Allocated over 5 years: \$.22/5 = \$.04 per record per year.

[c] Per attached "File-Keepers Price Schedule", "Barcode" cost of \$1.65 is a required storage cost. \$1.65/12 records = \$. 14 per record. Allocated over 5 years: \$.14/5 = \$.03 per record per year.

[d] Per attached "File-Keepers Price Schedule", "Delivery" cost of "\$1.80/box" is a required storage cost. \$1.80/12 records = \$. 15 per record. Allocated over 5 years: \$.15/5 = \$.03 per record per year.

[e] The number of domestic violence reports placed into storage by the Los Angeles County's Sheriff's Department was 11,371 in 2000-01, 10,814 in 2001-02 and 10,649 in 2002-03.

**KEEPERS**

July 31, 2003

Dear Valued Customer:

File Keepers, LLC takes pride in providing outstanding service. A rate increase is necessary in order to maintain our exemplary level of service. For your convenience, please find enclosed a new Price Schedule, which will become effective September 1, 2003.

Sincerely,

FILE KEEPERS, LLC  
Customer Relations Department

enclosure

6277 EAST SLAUSON AVENUE, LOS ANGELES, CALIFORNIA 90040-3011  
PHONE (323) 728-3133 • FAX (323) 728-1349  
[www.filekeepers.com](http://www.filekeepers.com)





'03 AUG 11 A8:31

The following prices will be effective September 1, 2003

PRICE SCHEDULE

FISCAL ADMINISTRATION  
MAIL DESK 1

MONTHLY RETENTION CHARGES

Standard Size Carton (10" x 12" x 15") .....	\$	.28 each
Letter Size Transfer Case (10" x 12" x 24") .....	\$	.75 each
Legal Size Transfer Case (10" x 15" x 24") .....	\$	1.05 each
Minimum Retention .....	\$	45.00/month

SERVICE CHARGES

Receiving, Indexing, Handling & Data Processing (With barcode label) .....	\$	1.65/box
Receiving, Indexing, Handling & Data Processing (Without barcode label) .....	\$	2.65/box
Data Entry/Box Descriptions (beyond 100 characters) .....	\$	.43/line
Box Retrieval .....	\$	2.25/box
File Retrieval .....	\$	2.55/file
Box Refile .....	\$	2.25/box
File Refile .....	\$	2.55/file
Interfile (new folders or documents) .....	\$	3.95/item
Destruction (plus retrieval) .....	\$	3.50/box
Permanent Removal/Palletizing (plus retrieval) .....	\$	3.95/box
Photocopies .....	\$	.25/page
Computer Reports .....	\$	.25/page
Bar Code Labels .....	\$	No Charge
Special Labor/Programming .....	\$	49.00/man-hour
Client Review/Conference Room (1 <sup>st</sup> day Complimentary) .....	\$	48.00/day

DELIVERY/PICK UP/FACSIMILE

Facsimile - Client's Document .....	\$	1.00/page
Regular - Delivery Next Day (up to 6 Items) .....	\$	12.75
Each Additional Item, add .....	\$	1.80
Deliver in Three Hours - Add Priority I Rate .....	\$	17.75
Deliver Half Day - Add Priority II Rate .....	\$	7.75
Deliver After Hours, Weekends & Holidays (minimum 4 hours) .....	\$	49.00/man-hour
Pick Up New Inventory, Refiles and Interfiles (minimum Regular Delivery) .....	\$	1.80/box

CARTONS/DELIVERY (SETS OF 25)

Standard Size (10" x 12" x 15") .....	\$	2.35 each
Expandable Size (10" x 12" x 16") .....	\$	2.60 each
X-Ray Size (21" x 6" x 15") .....	\$	2.60 each
Rush Delivery (Next Day) .....	\$	17.75
Regular Delivery (Within 3 Working Days) .....	\$	12.75

ADDITIONAL SERVICE QUOTES PROVIDED UPON REQUEST.

6277 EAST SLAUSON AVENUE □ LOS ANGELES, CALIFORNIA 90040-3011  
SALES (323) 728-3133 □ ORDER DESK (323) 728-3151 □ FAX (323) 728-0867



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

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J. TYLER McCAULEY  
AUDITOR-CONTROLLER

**Los Angeles County's Supplement  
Parameters & Guidelines - Minimal Unit Costs  
Crime Victim's Domestic Violence Incident Reports [CSM 99-TC-08]**

**Declaration of Leonard Kaye**

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analyses, and for proposing, or commenting on, parameters and guidelines (Ps&Gs) and amendments thereto, and extension of time requests, and for filing incorrect reduction claims, all for the complete and timely recovery of costs mandated by the State. Specifically, after having met and conferred with Los Angeles County Sheriff staff, I have prepared the subject minimal unit cost schedule, attached hereto.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

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

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

4/27/04, Los Angeles, CA  
Date and Place

Carl Kaye  
Signature

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



**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3662  
(916) 446-0278  
E-mail: csmInfo@csm.ca.gov



July 15, 2004

Mr. Leonard Kaye  
SB 90 Coordinator  
County of Los Angeles  
500 West Temple Street, Room 603  
Los Angeles, CA 90012

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

**Re: Proposed Parameters and Guidelines – Request For Information**  
*Crime Victim's Domestic Violence Incident Reports, 99-TC-08*  
Los Angeles County, Claimant  
Family Code Section 6228  
Statutes 1999, Chapter 1022

Dear Mr. Kaye:

On April 27, 2004, you provided fiscal information regarding Los Angeles County to support the adoption of a unit cost for the above-named proposed parameters and guidelines. We appreciate your efforts to support a unit cost for this program. However, we request that you provide fiscal information that is representative of cities and counties statewide to support the adoption of a unit cost.

Please submit this information by August 16, 2004. If this data adequately represents statewide costs for this program, Commission staff will propose a unit cost for these proposed parameters and guidelines and will tentatively set this matter for hearing on September 30, 2004.

If you have any questions, please contact Cathy Cruz at (916) 323-8218.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy Patton', written over a horizontal line.

NANCY PATTON  
Assistant Executive Director

Commission on State Mandates

Original List Date: 5/18/2000  
Last Updated: 3/12/2004  
List Print Date: 07/15/2004  
Claim Number: 99-TC-08  
Issue: Crime Victims' Domestic Violence Incident Reports

Mailing Information: Informal Conference/Pre-hearing

Mailing List

Related Matter(s)

02-TC-18 Crime Victims' Domestic Violence Incident Reports

TO ALL PARTIES AND INTERESTED PARTIES:

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

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Mr. Jim Jagers

Centratlon, Inc.

12150 Tributary Point Drive, Suite 140

Gold River, CA 95670

Tel: (916) 351-1050

Fax: (916) 351-1020

**INSTRUCTIONS FOR COMPLETING THE QUESTIONNAIRE**

We appreciate your time in completing this short questionnaire on your jurisdiction's document storage.

The attached questionnaire should be completed by an employee responsible for maintaining Internal Affairs personnel files and general domestic violence incident files.

Once the form is completed, please forward to:

Via Post:     Ginger Bernard  
                  MAXIMUS  
                  4320 Auburn Blvd  
                  Suite 2000  
                  Sacramento, CA 95841

Via e-mail:   gingerbernard@maximus.com

Thank you for your participation.



**MAINTENANCE OF FRIVOLOUS, UNFOUNDED OR EXONERATED  
COMPLAINTS AGAINST PEACE OFFICERS**

Please specify the method by which you store frivolous, unfounded or exonerated complaints against peace officers separate from other files.

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Do you store those complaints in a locked file cabinet?  yes  no

If you store these complaints in a locked file cabinet, is it separate from other internal affairs investigations or sustained complaints?  yes  no

If your answer to the foregoing two questions is yes, please state the cost for the locked file cabinet and the number of such file cabinets you have:

Cost per locked file cabinet: \_\_\_\_\_

Number of such file cabinets: \_\_\_\_\_

Number of complaints per file cabinet: \_\_\_\_\_

Please specify the method by which you archive your complaints against peace officers:

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How much does it cost you to retain each complaint against a peace officer each year:

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How did you calculate the costs stated above:

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**MAINTENANCE OF DOMESTIC VIOLENCE INCIDENT REPORTS**

Please specify the method by which you archive Domestic Violence Incident Reports:

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How much does it cost you to retain each Domestic Violence Incident Report each year:

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How did you calculate the costs stated above:

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Name and rank of officer completing form: \_\_\_\_\_

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Agency \_\_\_\_\_

Date form completed: \_\_\_\_\_

1 Survey and Data Collection in  
2 Crime Victims Domestic Violence Incident Reports Test Claim  
3 99-TC-08  
4 Peace Officer Personnel Records Test Claim  
5 00-TC-24  
6 Discovery of Peace Officer Personnel Records Test Claim  
7 00-TC-25

8 Declaration of  
9 in support of Test Claimants

10 I, Ginger Bernard, state as follows:

11 1. I am a Senior Consultant with MAXIMUS and have held this position for  
12 the past 3 years. I have personal knowledge of the facts herein and if called upon to  
13 testify, I could do so competently.

14 2. On or about April 22, 2005, I was asked to circulate a survey as drafted by  
15 our counsel, Pam Stone and Juliana Gmur, to obtain data with regard to three test  
16 claims. A true and correct copy of the survey is attached as Exhibit A.

17 3. On or about April 29, 2005, I mailed copies of the survey to a list of  
18 sheriffs in the state of California that I received from Willie Beaudet of California State  
19 Association of Counties (CSAC). In addition, on or about May 5, I e-mailed a copy of  
20 the survey to Glen Everroad of the City of Newport Beach. I did so because Mr.  
21 Everroad had volunteered that the city's Chief of Police, Bob McDonnell, is active with  
22 the Chiefs of Police Association and could forward the survey to its members.

23 4. On or about May 5, 2005, I began receiving responses to the survey.  
24 After the deadline of May 24, I summarized the responses and a true and correct copy  
25 of the summary is attached as Exhibit B.

26 I declare under penalty of perjury that the foregoing is true and correct and that  
27 this declaration is executed this 25th day of August, 2005, at Sacramento, California.

28  

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Ginger Bernard, Declarant

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Alameda County Sheriff	By tracking (case) number and date.	Unknown	Unknown	Casey Nice, Captain
Alhambra PD	The reports are kept both on shelves, and in a digital format. The reports are taken in by the Records Section, and copies are made of the report for distribution. The original report is then scanned into a digital archiving system. After digitizing, the original report is the shelved in the Records Section.	\$3,338.00	Multiply the amount of reports (179) by the average time it takes to archive (1 hour) by the hourly salary of a Records Clerk (\$19.00)	Sergeant Ron Andreas
Arcadia Police Dept.	1. Information retained electronically in our record mgmt system. 2. Paper document stored in file storage unit for five years. 3. Document scanned/stored on optical disk for permanent storage.	Optical = $\$0.026 \times 2 = \$0.052 + \$0.47$ for paper storage. Total = Approx. \$0.52 per Domestic Violence Report	1. Optical disk cost = \$150 and retains approximately 70,000 datasets (pages). Each document averages 12 pages. We have one working copy of the disk and a backup copy. 2. Total cost of storage unit is \$19,495.24 and houses 5,236 lineal inches. Cost per inch = \$3.72. Each 12-pg. doc occupies approx 1/8 inch and equates to \$0.47 cost per doc.	Nancy Chik, Mgmt. Analyst, Janice Cumming, Records Mgr.
Arcata Police Dept	Currently we use a document imaging service at a cost of \$0.10/page. Older docs are stored off-site at a cost of \$0.25 per doc per month	\$0.02	Coverage of 150 reports in a box @ \$3.00 per year for off-site storage	Jeannie Buerer, Admin Analyst

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Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Buena Park PD	D.V.I.R.'s are maintained by the Record's Bureau, and not by the I.A. Unit. They, like any/all other police reports are "scanned" into a database, and available for retrievable.	The only cost would be the time spent by a Record's Clerk 'scanning' the hardcopy report into the database. Unknown how much the time spent scanning each report costs.	N/A	Sgt. Richard Forsyth
Burbank Police Dept.	Domestic violence incident reports are maintained in the Record Bureau in the same manner as any other police report for a period of ten years. If no arrest has been made, the report is purged after ten years. If an arrest has been made, the report is m	no cost	Blank	Peggy Peters, Executive Assistant
Butte County Sheriff's Office	Hardcopy is stored on open shelf filing system until scanned into the Laser Fiche System	Unknown	N/A	Laura Fisher, Admin. Sec./ Cherie Jones, Records Sup.
Can't read the writing	Filed and stored in locked archive facility located in the department	\$50-75 per year	Desk ofc. Hourly wage of \$25 per hour; 2-3 hours of f/u for auditing purposes	Mel Mukai, Sgt.

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Chico Police Dept.	Our Domestic Violence Reports are archived in paper format and stored with other records in our files. They are retained for the period of time prescribed by law. Specific retrieval of these files is accomplished with the aid of our computerized Records	No additional costs	Blank	Tim Voris, Lt.
Chula Vista Police Dept.	Stored in our secured police support services area.	We have not determined this cost.	N/A	Gary Wedge, Captain
Costa Mesa PD	After 5 years, the DV cases are removed and permanently stored in the basement.	No additional costs incurred as the DV files are archive along with all other archived files. Therefore, there is no equipment, hardware, software, etc costs and only personnel cost is time to pull file and walk downstairs.	N/A	Ron Smith, Lt.
Covina PD	All of our reports are stored via digital imaging; domestic violence reports are not a separate storage issue.	N/A	N/A	Mark Corder, Police Lt.

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Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Cypress PD	All DV reports are maintained in file for seven years. After seven years they are reviewed for purging per City resolution.	\$.33 per year, or \$2.31 for seven years.	Cost of file room storage \$10,000), \$10,000/35,000 (avg. 5000 reports per year for seven years)= \$.28 per file per year. Cost of file folders (\$2,500). \$2,500/5,000 (avg. 5000 reports per year)= \$.5 per file per year. \$.33 x (seven years of archival) =	Jim Olson, Sergeant
Davis Police Dept.	They are kept as other Domestic Violence Crime Reports, in Records for five years. They will be scanned after 5 years and put onto CD's	Once they are stored after the five years, it costs about 10 cents a page to scan the documents, which would be about \$30/per year	Calculated the number of pages that would be scanned multiplied by 10 cents, results in about \$30 to scan the documents.	Dorothy Pearson, Lt.
El Cerrito Police Dept.	Placed in file for 3 yrs. Then sent to be stored on CD's	Very little, if any	Blank	Sgt. Gary Priese
El Dorado County	DV files are retained in department records management system database. See attached Policy	Blank	Blank	Mark Getchel, Capt.
El Monte Police Department	We keep our reports per the California Criminal Records Security Statutes and Regulations	Unknown	N/A	Gina Tromp, Records Manager
Glen County	A printed, hard copy, is kept for each DV, in file cabinets along with all other cases, numbered sequentially, by year. Also a case file is maintained in the computer.	Unknown. All cases are kept together.	blank	Lt. Philip Revolinsty

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Glendale PD	They are retained on paper in filing system.	There are no specific costs associate with retention.	N/A	Bruce Fox, Police Lieutenant
Grover Beach Police Dept	The DV Incident reports are archived into a dept. records storage are (locked) and kept per the mandated time before destroyed/purged	min. cost		Brian Thomas, Acting Lt.
Half Moon Bay PD	These types of reports are stored electronically and a hard copy is kept in our secured Records Storage.	Not knowable!	We don't	Ike Ortiz, COP
Hermosa Beach PD	Domestic Violence reports are kept in the same files as other reports assigned case numbers.	No cost increase.	N/A	Michael Lavin, Chief of Police
Huntington Beach PD	Maintained in Records Bureau for 10 years.	Unknown	Blank	Sgt. M. P. Kelly, HBPD PSU Captain Dan Johnson
Inglewood Police Dept	All reports pertaining to DV I are filed and maintained by our Records Section. Original Doc is assigned a DR # then it is placed in a folder for storage. They are maintained no different than other incident reports generated by the Dept.	\$0.25	Approximate cost of folder for filing purposes \$.25	Lt. Michael McBride

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Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Kings County Sheriff's Department	All cases are stored in our electronic data base	No costs associated other than annual updates of our electronic data base, where all reports are retained.	N/A	Dean Morrow, Commander
Laguna Beach Police Dept.	Filed in the Records Bureau.	No direct cost.	N/A	Lt. Mike Hall
Long Beach Police Department	We do not maintain separate files for DV Incident Reports. They are simply another type of complaint of potential misconduct	unknown	n/a	Braden Phillips, Admin Bureau Mgt (Civilian Bureau Chief)
Madera County Sheriff's Department	Domestic Violence reports are stored on microfiche and on electronic media in our Records Management system.	There is no cost to retain these reports on either microfiche or on our RMS.	There is no cost	Melissa Nelson, Records Supervisor
Mammoth Lakes PD	Computerized records	0	In my head.	Michael Donnelly, COP
Manteca PD	DV reports are kept in the main file (as are all reports) for the remainder of the year in which they were taken. They are then kept one additional year before being reduced to microfiche and shredded.	Negligible	Blank	John Orcutt, Capt.
Marin County Sheriff's Office	Blank	There is no determination for cost to retain these files.	Blank	Marc North, Lieutenant

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Mariposa County Sheriff	All domestic violence cases are uploaded into the computer main frame on a daily basis and archived on the computer system.	0.	N/A	Brian Muller, Undersheriff
Modesto PD	DV Incident Reports are scanned into filenet imaging and dept with all other police reports. From January 2000 through April 30, 2005, 5,653 DV Reports were processed	Unable to calculate the cost to archive police reports in FileNet.	Blank	Cindy Fuzie, Police Civilian Supervisor
Mono County Sheriff's Department	Microfilm	N/A	N/A	Shannon Kendall, Admin. Asst., Civilian
Monterey County Sheriff's Office	Filed on shelf 4-5 years. Then Microfilmed and kept indefinitely.	No special cost involved. Ther are kept with all other crime reports.	Blank	Tracy Brown, Commander
Monterey PD	They are stored in our Records Management System along with all of our other cases. We are currently paperless, so there is no hard copy file. There is no purging, nor is there a separate system for DV cases.	Since there are simply a part of our overall RMS system, the cost is zero, they are stored electronically.	N/A	Sergeant Leslie Sonne

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Morro Bay PD	We have a computerized records management system (PSNET) and a Laserfiche Document imaging system. Hard copy reports are retained in file folders for one year for quick access.	There really is no retention cost however there is labor cost for processing the report and scanning it into our Laserfiche system for storage. I would estimate a total of about 30 minutes for each report which equates to about \$30 for salary and benefit	See Above	John DeRohan, Police Chief
Nevada County Sheriff	Keep paper copy in locked file room until we run out of space and then we scan.	Undeterminable	Blank	John Trauner, Undersheriff
Newark PD	Domestic Violence Incident Reports are kept in the same manner as all police reports. They are paper files, filed by report number in the Records Division. They are kept according to Records Retention schedules, then destroyed.	Unable to calculate	N/A	Holly Risner-Perez, Admin Asst
Newport Beach PD	By case number	Not calculable - included with retention of all incident reports	N/A	M. Hyams, Capt.

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Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Novato Police Dept.	Hard copies (original) are retained for a approximately five years and then volunteers scan them into an imaging system. Scanned reports are then "proofed" by volunteers and the originals are then destroyed.	The Records staff time to process the original reports is collected under domestic violence arrest polices and procedures. Volunteers prepare reports for archiving into imaging system. The Novato Police Department maintains all original reports in a powe	N/A	Captain James Berg
Orange PD	Original domestiv violence incident reports are maintained for 7 yrs. After which DV incident reports are scanned onto laserfiche. The original is destroyed.	No cost to the department.	Did not apply.	Phil Casto, Sergeant
Paradise Police Dept.	Case Files	\$9.36 per year.	Cost of file/employee time 1/4 hr to set up and file, 10% Admin Fee.	Roger Nichols, Police Lieutenant
Placentia PD	Held in hard copy for five years, electronically scanned and maintained on Police Department server for the remaining time. (As of this writing Placentia P.D. has never purged an electronically stored report.)	\$1.66 for each report	Estimated 200 reports a year, 5 minutes to process each report, staff time for Records Clerk approximately \$20.00 an hour.	Ward Smith, Captain

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Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Placer County Sheriff's Office	Paper copies of reports are kept on file in our Records Bureau for 4 years. Microfiche and electronic copies are maintained indefinitely and can be easily retrieved. A database is also maintained by Crime Analysis.	Unknown	Blank	Stephen L. D'Arcy, Undersheriff
Plumas County Sheriff's Office	Computer file for ? And hard copy file for retention. Records kept in file room.	\$292	Cost of the employee to ? And file each report.	Thomas Mareina, Undersheriff
Pomona Police Dept.	Scanned into optical imaging system and saved to disk.	\$0.30	Approx 66,384 file folders created each year, \$20,000 maintenance for imaging system annually, \$20,000 divided by 66,384=.30, this is the retention cost only and does not include personnel costs.	Judy Ramsey, Police Records Manager, Sergeant Dexter Cole, Internal Affairs
Riverside County Sheriff's Department	All police reports are stored in a document imaging system. Retrieval of reports is done electronically	\$18,666.66	We average 3500 written domestic violence reports annually. It takes approx. 20 mins per report to scan. Scanning is done by office assistants making \$16/hr.	Terry Hudson, Sgt. Heather Woods, Records Mgr.
Sacramento County Sheriff	Reports are received by entering info. Into a database then scanned and digitally archived	\$5.10 first year. \$.20 each addtl year	First year - employee processing of report to archive + plater space and support for scanning database. Subsequent years - equipment support and plater replacement/backup	Dan Metcler, Records Mgr.

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
San Joaquin County Sheriff's Dept.	All crime reports are stored in our report-writing system database. Supplemental paperwork is filed in lateral drawer filing cabinets. After six years, supplemental paperwork is boxed and stored in an off-sight archive area.	No special cost incurred for this type of report vs. other calls for service.	Blank	Elaina Martinez, Records Manager and Sgt. Steve Fontes, Internal Affairs
San Rafael Police Dept.	DV Incident Reports are filed by report number in the annual files. Year one, all annual files are housed in Records in main Police Office. Year two, annual files are boxed and stored in file room in main Police Office. At the beginning of year three	Yr. 1:\$3.52 Yr. 2:\$2.64 Yr. 3:\$8.80 Yr. 4:\$6.16	\$53/hr. The amount of time to print, file, handle confidential status of incident report; 4 mins. Per report. Time to move from year on the year two filing: 3 mins. Per report. Time to move from year two to year three including cull closed reports: 10 m	Lynnne Ohlson, Management Analyst
Santa Ana PD	All Domestic Violence Incident Reports are scanned and stored onto a server. They are accessed by using Laserfiche computer software.	Unknown-Domestic Violence Reports are scanned into the Laserfiche computer system and stored on the server along with all other police incident reports. There is no separate accounting system for Domestic Violence Reports.	N/A	Sergeant M. Lowery 714.245.8016

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Santa Barbara Sheriff	Approximately 175 DVR are taken by the Santa Barbara Sheriff's Dept. per year. The reports are then copied on to laser fiche by a private company.	The cost to transfer the written reports to laser fiche is approximately \$223. per yr.	1480 pages @ .08.5 per page plus \$75. Transport fee.	Sgt. Lance Craig
Santa Clara County	All incident reports including domestic violence reports are archived in our Incident Report database. All incident reports prior to Jan 1, 1999 are archived on microfilm	Once the reports are microfilmed there is no cost for retention - just storage. The initial microfilms cost was approx. 5.9 cents per page, plus a document preparation cost (removing staples, etc) at \$20.00 per hour.	The microfilm cost is based on a microfilm bid received in 2003.	Alan Minato, Fiscal Officer and Michelle Ovarrubias, Records Mgt.
Sonoma County Sheriff's Dept.	In the records division	Nothing, built in cost	Blank	Lt. Larry Doherty
Sutter County Sheriff	DV reports are kept on our Sheriff server in our Crimes Mgmt System Report Database	N/A	N/A	Jim Denney, Sheriff-Coroner
Tehama County Sheriff	Same as all other reports - in our records bureau for 2 yrs., then in archives. All infor is also now computerized.	No significant cost.	N/A	Paul Hosler, Captain

Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Twin Cities PD	DV records are filed in the dispatch center along with other reports. These reports remain for approximately one year at which time they are archived in a large locked storage container located outside our police facility.	Not Cost incurred	Blank	Andre Horn, Captain
Ventura County Sheriff	All Reports are scanned and archived in the filenet optical document storage system.	Cannot quantify. We pay \$55,000/yr maintenance for filenet.	N/A. There are 1.1 million documents on storage in filenet. We are unable to determine how many are domestic violence incident reports.	Cmdr. Keith Parks
Ventura PD	Hard copy and electronic	Unknown soft costs because it is grouped with other mandatory reports	N/A	Ken Corney, Asst. Chief
Vernon Police Dept.	Domestic Violence incident reports are entered into and maintained in our Records Management System database.	\$221.00	Using calendar year 2004, the cost of retention is based on the amount of our software vendor's annual maintenance contract (\$47,694. -rounded to the nearest whole dollar), divided by the total number of reports we had in 2004 (2,788), which generated a t	Sergeant Jerry Winegar
Westminster	blank	blank	blank	blank
Willows PD	A hard copy of these reports are maintained with other case files. Retrieval when necessary is done manually.	\$0 it is part of our normal procedure.	N/A	Rick Shipley, COF

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Client:	Method by which you archive Domestic Violence Incident Reports:	How much does it cost you to retain each Domestic Violence Incident Report each year:	How did you calculate the costs stated above:	Name and rank of officer completing form:
Woodland PD	Paper cases are kept in file shelves, also in electronic format in RMS system - Cases are purged per law	\$4858.33/year	File cabinet \$4500 - 20 year life = \$225/year. Hourly rate \$26.05 w/ benefits - 373 reports per year = 186.5/hrs x \$26.05 = \$4,858.33	Charles Wilts, Lt.
Yolo County Sheriff	They are filed with regular crime/incident reports.	They are treated no differently. -\$0	Spoke to records clerk supervisor.	Jeff Monroe, Sergeant
Yuba County	DV Incident Reports are maintained within the departments computer system (crimes management) and stored on hard copy as well.	N/A	N/A	Glenda Hubbard, Records/Communication Sup.

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