Hearing Date: February 13, 2026

ITEM 6

PROPOSED DECISION AND PARAMETERS AND GUIDELINES

Penal Code Sections 745(j)(3) and 1473(f), as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023

Criminal Procedure: Discrimination

24-TC-02

Period of reimbursement begins July 1, 2023

TABLE OF CONTENTS

Exhibit A

Test Claim Decision 1-49

Exhibit B

Draft Expedited Parameters and Guidelines 1-18

Exhibit C

Controller's Comments on the Draft Expedited Parameters and Guidelines 1-10

Exhibit D

County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines 1-15

Exhibit E

County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines 1-22

Exhibit F

County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines 1-13

Exhibit G

City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines 1-16

Exhibit H

County of Marin's Comments on the Draft Expedited Parameters and Guidelines ... 1-17

Exhibit I

County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines 1-16

Exhibit J

County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines 1-15

Exhibit K

Draft Proposed Decision and Parameters and Guidelines 1-39

Exhibit L

Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines 1-11

STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

September 29, 2025

Exhibit A

Mr. Chris Hill
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. Fernando Lemus
County of Los Angeles
500 West Temple Street, Room 603
Los Angeles, CA 90012

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Decision
Criminal Procedure: Discrimination, 24-TC-02
Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
County of Los Angeles, Claimant

Dear Mr. Hill and Mr. Lemus:

On September 26, 2025, the Commission on State Mandates adopted the Decision approving the Test Claim on the above-captioned matter.

Very truly yours,

Juliana F. Gmur
Executive Director

J:\MANDATES\2024\TC\24-TC-02 Criminal Procedure Discrimination\Correspondence\decisiontrans.docx

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM Penal Code Sections 745 and 1473 Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256), Effective January 1, 2023 Filed on December 19, 2024 County of Los Angeles, Claimant	Case No.: 24-TC-02 *Criminal Procedure: Discrimination* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted September 26, 2025*) (*Served September 29, 2025*)

TEST CLAIM

The Commission on State Mandates adopted the attached Decision on September 26, 2025.

Juliana F. Gmur, Executive Director

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM Penal Code Sections 745 and 1473 Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256), Effective January 1, 2023 Filed on December 19, 2024 County of Los Angeles, Claimant	Case No.: 24-TC-02 *Criminal Procedure: Discrimination* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted September 26, 2025*) (*Served September 29, 2025*)

DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on September 26, 2025. Fernando Lemus appeared as the representative and Lucia Gonzalez appeared on behalf of the County of Los Angeles (claimant). Chris Hill appeared on behalf of the Department of Finance (Finance). The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission adopted the Proposed Decision to approve the Test Claim by a vote of 7-0, as follows:

Member	**Vote**
Lee Adams, County Supervisor	Yes
Malia Cohen, State Controller, Vice Chairperson	Yes
Karen Greene Ross, Public Member	Yes
Renee Nash, School District Board Member	Yes
William Pahland, Representative of the State Treasurer	Yes
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	Yes
Alexander Powell, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	Yes

Summary of the Findings

This Test Claim addresses Penal Code sections 745(j)(3) and 1473(f), as amended by the test claim statute, the Racial Justice Act for All.[1]

Existing law, the Racial Justice Act (RJA), prohibits the State from seeking or obtaining a criminal conviction or seeking, obtaining, or imposing a sentence on the basis of race, ethnicity, or national origin.[2] The RJA established motion and habeas corpus procedures to allow adult and juvenile defendants charged or sentenced with a crime, to allege violations and seek remedies prospectively only, beginning January 1, 2021.[3] To enforce the RJA's prohibition of both explicit and implicit racial discrimination, an RJA violation is established by a preponderance of the evidence of *any* of four types of violations specified.[4] For a post-judgment petition, the judge will evaluate whether it alleges any facts that would establish a violation.[5] If so, or on the State Public Defender's request, it "shall" appoint counsel to a petitioner.[6] The newly appointed counsel may amend the petition.[7] The judge then determines if the petition makes a prima facie case.[8] If there is a prima facie case, the claim continues and the petitioner

[1] Statutes 2022, chapter 739 (AB 2542). Penal Code section 1473(f) was renumbered as section 1473(e) with no change in language, by Statutes 2023, chapter 381 (SB 97), section 1.

[2] Statutes 2020, chapter 317, sections 3.5, 5, and 6; Penal Code section 745(a), (h)(4).

[3] Penal Code section 745(j), as added by Statutes 2020, chapter 317 ["This section applies only prospectively in cases in which judgment has not been entered prior to January 1, 2021."]; Penal Code section 1473(f), as amended by Statutes 2020, chapter 317 ["Notwithstanding any other law, a writ of habeas corpus may also be prosecuted after judgment has been entered based on evidence that a criminal conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745 if judgment was entered on or after January 1, 2021."].

[4] Penal Code section 745(a), as added by Statutes 2020, chapter 317.

[5] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[6] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[7] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[8] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

may request discovery.[9] Next, the court "shall" hold a hearing.[10] The court "shall make findings on the record."[11] If a judgment had been entered and a violation is found, the court "shall," under the RJA, vacate the conviction and sentence and find both or either legally invalid, as specified.[12] The court would then either order new proceedings, modify the judgment, or modify the sentence, as specified.[13] The RJA required the appointment of counsel for habeas corpus petitioners whose judgments were entered *on or after* January 1, 2021.[14]

The 2022 test claim statute, effective January 1, 2023, applies the RJA retroactively.[15] Starting January 1, 2024, habeas corpus petitions may be pursued by all persons currently serving a sentence in state prison or county jail, or committed to the Division of Juvenile Justice, "regardless of their judgment date" (and, thus, *before* January 1, 2021), and the appointment of counsel is required when the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of section 745(a) or the State Public Defender requests counsel be appointed.[16]

The claimant seeks reimbursement for costs incurred by the county Public Defender's Office when appointed by the court "[c]ommencing January 1, 2024," to represent those petitioners whose criminal judgments have been entered *before* January 1, 2021 and are currently serving a sentence in state prison or county jail, or committed to the Division of Juvenile Justice in accordance with Penal Code sections 745(j)(3) and 1473(f), as amended by the test claim statute.[17]

---

[9] Penal Code section 745(d), as added by Statutes 2020, chapter 317; *In re Montgomery* (2024) 104 Cal.App.5th 1062, 1071.

[10] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317; Penal Code section 745(c), as added by Statutes 2020, chapter 317.

[11] Penal Code section 745(c)(3), as added by Statutes 2020, chapter 317; Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[12] Penal Code section 745(e)(2)(A) - (B), as added by Statutes 2020, chapter 317.

[13] Penal Code section 745(e)(2)(A) - (B), as added by Statutes 2020, chapter 317.

[14] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[15] Statutes 2022, chapter 739 (AB 256).

[16] Penal Code sections 745(j)(3) and 1473(f), as amended by Statutes 2022, chapter 739.

[17] Exhibit A, Test Claim, pages 10-11.

The Test Claim was timely filed.[18] Because the claimant filed the Test Claim on December 19, 2024 (during FY 2024-2025), the potential period of reimbursement begins at the start of the prior fiscal year, which is July 1, 2023.[19]

The Commission finds that the requirement in Penal Code sections 745(j)(3) and 1473(f), as amended by the test claim statute, to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the RJA under Penal Code section 745(a), is a new requirement. The new requirement for the appointed counsel's representation will continue until the end of the evidentiary hearing required under Penal Code section 1473.

The Commission further finds the test claim statute is mandatory and imposes a legally enforceable duty on the county to provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, with their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court. County public defenders are the first to be assigned as counsel under the "exclusive" process in Penal Code section 987.2. Penal Code section 1473(f) states that counsel "shall" be appointed for 745(a) petitions.

The Commission finds that the mandated activity imposes a new program or higher level of service. Providing court-appointed counsel to indigent litigants is a unique county function.[20] The test claim statute also implements the state policy of erasing implicit and explicit racial discrimination in criminal prosecution.[21]

Finally, the Commission finds there are costs mandated by the state and that none of the exceptions in Government Code section 17556 apply.[22] The test claim statute does not create a new crime, eliminate a crime, and its purpose is not to change the penalty for a crime, as required under section 17556(g) and, thus, the crime exception does not apply. Rather, the test claim statute's habeas procedures, which are civil in nature, collaterally attack prior criminal proceedings where it is alleged that the state sought or obtained a criminal conviction or sentence on the basis of race, ethnicity, or national

---

[18] Government Code section 17551(c); California Code of Regulations, title 2, section 1183.1(c); Exhibit A, Test Claim, page 17, paragraph 7 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[19] Government Code section 17557(e).

[20] Penal Code section 987.2.

[21] Statutes 2020, chapter 317, section 2.

[22] Exhibit A, Test Claim, pages 17-18, paragraphs 8-10 (Declaration of Elizabeth Lashley-Haynes).

origin either intentionally or implicitly.[23] The purpose of the RJA is *not* to punish, but rather to remedy the harm to the integrity of the judicial system and to actively work to eradicate racial disparities within the criminal justice system itself.[24]

Accordingly, the Commission approves this Test Claim and finds that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning July 1, 2023, requiring counties to perform the following new state-mandated activity:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the RJA under Penal Code section 745(a), when appointed by the court.

COMMISSION FINDINGS

I. Chronology

01/01/2023 Penal Code sections 745 and 1473, as amended by Statutes 2022, chapter 739 (AB 256), sections 2 and 3.5, became effective.

01/01/2024 Penal Code section 1473(f) was renumbered as section 1473(e) with no change in language, by Statutes 2023, chapter 381 (SB 97), section 1.

12/19/2024 The claimant filed the Test Claim and revised it on March 27, 2025.[25]

03/12/2025 Commission staff issued Request for Clarification of Pleading and Second Notice of Incomplete Test Claim.

03/17/2025 Solano County Office of the Public Defender filed comments on the Test Claim.[26]

03/18/2025 Department of Finance (Finance) filed comments on the Test Claim.[27]

03/19/2025 Contra Costa Office of the Public Defender filed comments on the Test Claim.[28]

---

[23] Penal Code section 1473(f); *Maas v. Superior Court* (2016) 1 Cal.5th 962, 975 ["A habeas corpus proceeding is not a criminal action."].

[24] Statutes 2020, chapter 317 (AB 2542), section 2(i).

[25] Exhibit A, Test Claim.

[26] Exhibit D, Solano County Office of the Public Defender's Comments on the Test Claim.

[27] Exhibit B, Finance's Comments on the Test Claim.

[28] Exhibit E, Contra Costa Office of the Public Defender's Comments on the Test Claim.

03/19/2025 Ella Baker Center for Human Rights filed comments on the Test Claim.[29]

03/19/2025 Monterey County Office of the Public Defender filed comments on the Test Claim.[30]

03/20/2025 County of Ventura Office of the Public Defender filed comments on the Test Claim.[31]

03/20/2025 University of San Francisco Racial Justice Clinic filed comments on the Test Claim.[32]

03/21/2025 Alameda County Public Defender filed late comments on the Test Claim.[33]

03/27/2025 The claimant filed Response to Request for Clarification of Pleading and Second Notice of Incomplete Test Claim.[34]

04/04/2025 Commission staff issued Second Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date.

04/16/2025 County of Santa Clara filed comments on the Test Claim.[35]

04/17/2025 The claimant filed rebuttal comments on the Test Claim.[36]

05/05/2025 California State Association of Counties filed comments on the Test Claim.[37]

06/17/2025 Commission staff issued the Draft Proposed Decision.[38] No comments were filed.

---

[29] Exhibit F, Ella Baker Center for Human Rights' Comments on the Test Claim.

[30] Exhibit G, Monterey County Office of the Public Defender's Comments on the Test Claim.

[31] Exhibit H, County of Ventura Office of the Public Defender's Comments on the Test Claim.

[32] Exhibit I, University of San Francisco Racial Justice Clinic's Comments on the Test Claim.

[33] Exhibit J, Alameda County Public Defender's Late Comments on the Test Claim.

[34] Exhibit A, Test Claim.

[35] Exhibit K, County of Santa Clara's Comments on the Test Claim.

[36] Exhibit C, Claimant's Rebuttal Comments.

[37] Exhibit L, California State Association of Counties' Comments on the Test Claim.

[38] Exhibit M, Draft Proposed Decision.

II. Background

A. Prior Law: The Racial Justice Act (RJA) of 2020 (AB 2542)

The Racial Justice Act (RJA),[39] effective January 1, 2021, added section 745 to the Penal Code and amended Penal Code sections 1473 and 1473.7 to prohibit the State from seeking or obtaining a criminal conviction or seeking, obtaining, or imposing a sentence on the basis of race, ethnicity, or national origin.[40] The RJA established motion and habeas corpus procedures to allow adult and juvenile defendants charged or sentenced with a crime, to allege violations and seek remedies prospectively only, beginning January 1, 2021.[41] Beginning on that date, if trial is pending, an RJA violation can be alleged by motion filed by the defendant.[42] If the case is post-judgment, an RJA violation could be alleged by an incarcerated petitioner through a petition for habeas corpus "if judgment was entered on or after January 1, 2021."[43] Those no longer incarcerated can also make a motion to vacate a conviction or sentence on the ground that the conviction or sentence was sought, obtained, or imposed on the basis of race, ethnicity, or national origin in violation of subdivision (a) of Section 745.[44]

To enforce the RJA's prohibition of both explicit and implicit racial discrimination, an RJA violation is established by a preponderance of the evidence of *any* of the following:

> (1) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin.
>
> (2) During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin,

---

[39] Statutes 2020, chapter 317 (AB 2542).

[40] Statutes 2020, chapter 317, sections 3.5, 5, and 6; Penal Code section 745(a), (h)(4), as added by Statutes 2020, chapter 317.

[41] Penal Code section 745(j), as added by Statutes 2020, chapter 317 ["This section applies only prospectively in cases in which judgment has not been entered prior to January 1, 2021."]; Penal Code section 1473(f), as amended by Statutes 2020, chapter 317 ["Notwithstanding any other law, a writ of habeas corpus may also be prosecuted after judgment has been entered based on evidence that a criminal conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745 if judgment was entered on or after January 1, 2021."].

[42] Penal Code section 745(b) and (c), as added by Statutes 2020, chapter 317.

[43] Penal Code sections 745(b) and 1473(f), as added and amended by Statutes 2020, chapter 317.

[44] Penal Code sections 745(b) and 1473.7(a)(3), (c), as added and amended by Statutes 2020, chapter 317.

whether or not purposeful. This paragraph does not apply if the person speaking is describing language used by another that is relevant to the case or if the person speaking is giving a racially neutral and unbiased physical description of the suspect.

(3) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who commit similar offenses and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.

(4)(A) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.

(B) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed.[45]

A useful summary of the four above "pathways" to an RJA violation was produced by the Office of the State Public Defender.[46] In short, the first two pathways prohibit racially discriminatory conduct by law enforcement, legal professionals, and jurors, both inside and outside the courtroom. The second two pathways prohibit racially discriminatory actions in charging and sentencing, which can be based on statistical evidence. Any one of the four constitutes an RJA violation.

The Legislature's findings and declarations identify the purpose of the RJA is to root out racism in criminal justice proceedings. Accordingly, courts give "considerable weight"[47] to the Legislature's extensive social justice findings, which are excerpted as follows:

- "Discrimination undermines public confidence in the fairness of the state's system of justice and deprives Californians of equal justice under law."[48]

[45] Penal Code section 745(a), as added by Statutes 2020, chapter 317.

[46] Exhibit N (1), *Racial Justice Retroactivity, AB 256*, Office of the State Public Defender, pages 3-4.

[47] *Young v. Superior Court of Solano County* (2022) 79 Cal.App.5th 138, 157.

[48] Statutes 2020, chapter 317, section 2(a).

- "We cannot simply accept the stark reality that race pervades our system of justice. Rather, we must acknowledge and seek to remedy that reality and create a fair system of justice that upholds our democratic ideals."[49]
- "Even though racial bias is widely acknowledged as intolerable in our criminal justice system, it nevertheless persists because courts generally only address racial bias in its most extreme and blatant forms. More and more judges in California and across the country are recognizing that current law, as interpreted by the high courts, is insufficient to address discrimination in our justice system."[50]
- "Current legal precedent often results in courts sanctioning racism in criminal trials. Existing precedent countenances racially biased testimony, including expert testimony, and arguments in criminal trials."[51]
- "Existing precedent tolerates the use of racially incendiary or racially coded language, images, and racial stereotypes in criminal trials."[52]
- "Existing precedent also accepts racial disparities in our criminal justice system as inevitable."[53]

The Legislature's findings cite *McCleskey v. Kemp* (1987) 481 U.S. 279, 295-99, 312, a Georgia case in which a majority decision of the U.S. Supreme Court rejected a statistical approach to proving racial discrimination and reaffirmed the federal "purposeful discrimination" standard for proving racial discrimination in criminal prosecution.[54] The *McClesky* decision is summarized as follows:

> In *McCleskey*, a death penalty case, habeas corpus petitioner Warren McCleskey challenged his conviction and sentence on Eighth and Fourteenth Amendment grounds, arguing that statistical evidence showed defendants in Georgia who killed white victims were 4.3 times more likely to receive the death penalty than defendants charged with killing blacks. (*McCleskey*, *supra*, 481 U.S. at p. 287.) He relied on the findings of a statistics expert, Professor David Baldus, who examined 2,000 murder cases throughout the State of Georgia and performed a multiple regression analysis that excluded 230 nonracial explanations for the discriminatory pattern his study confirmed. (*Id*. at pp. 286–288.) The Baldus study showed that prosecutors were most likely to seek the death penalty in a case involving a white victim. Specifically, Georgia

[49] Statutes 2020, chapter 317, section 2(b).

[50] Statutes 2020, chapter 317, section 2(c).

[51] Statutes 2020, chapter 317, section 2(d).

[52] Statutes 2020, chapter 317, section 2(e).

[53] Statutes 2020, chapter 317, section 2(f).

[54] *McCleskey v. Kemp* (1987) 481 U.S. 279, 292-293.

prosecutors requested the death penalty in 70 percent of cases involving black defendants and white victims; 32 percent of cases involving white defendants and white victims; 15 percent of cases involving black defendants and black victims; and 19 percent of cases involving white defendants and black victims. (*Id*. at p. 287.) And racial factors were most likely to play a role in capital sentencing in cases that presented the greatest degree of jury discretion. (*Id*. at p. 287, fn. 5.)

The high court accepted the validity of Baldus's findings (*McCleskey*, *supra*, 481 U.S. at p. 291, fn. 7), but characterized them as evidencing nothing more than a "discrepancy that appears to correlate with race" (*id*. at p. 312). Pointing to the absence of evidence that the State of Georgia enacted its death penalty statute with a racially discriminatory purpose, the court, by a five-to-four vote, declined to find a constitutional defect. (*Id*. at pp. 292–296, 298–299.) The court observed that discretion—as exercised by prosecutors as well as by juries—can work in a defendant's favor as well as against him (*id*. at p. 312 [" 'the power to be lenient [also] is the power to discriminate' "]), and explained that the jury is a criminal defendant's fundamental bulwark against " 'race or color prejudice' " (*id*. at p. 310). The court also pointed to *Batson v. Kentucky*, *supra*, 476 U.S. 79—notably, another focus of our Legislature's criticism in passing the Racial Justice Act [fn. omitted]—to show its own " 'unceasing efforts' to eradicate racial prejudice from our criminal justice system." (*McCleskey*, *supra*, 481 U.S. at p. 309.) Taking Warren McCleskey's statistical approach to proving racial discrimination to the full measure of its logic, the court explained, "other claims could apply with equally logical force to statistical disparities that correlate with the race or sex of other actors in the criminal justice system." (*Id*. at p. 317.) These kinds of statistics-based arguments were "best presented to the legislative bodies," the court decided. (*Id*. at p. 319.)

Justice Brennan, in dissent, opined that "[t]he statistical evidence in this case ... relentlessly documents the risk that McCleskey's sentence was influenced by racial considerations." (*McCleskey*, *supra*, 481 U.S. at p. 328 (dis. opn.).) As Justice Brennan saw it, "This evidence shows that there is a better than even chance in Georgia that race will influence the decision to impose the death penalty: a majority of defendants in white-victim crimes would not have been sentenced to die if their victims had been black." (*Ibid*.) Given the history of officially sanctioned racial bias in Georgia's criminal justice system, Justice Brennan argued that McCleskey's statistics could not be ignored. (*Id*. at pp. 332–334 (dis. opn.).) What the majority characterized as " 'unceasing efforts' " to "eradicate" racial discrimination in the criminal justice system (*McCleskey*, at p. 309), Justice Brennan saw as "honorable steps" but merely evidence of the persistence of the underlying problem (*id*. at pp. 333, 344 (dis. opn.)). In a rejoinder quoted by the Legislature in its findings accompanying the Racial Justice Act, Justice Brennan observed that the

majority's "fear ... McCleskey's claim would open the door to widespread challenges to all aspects of criminal sentencing" suggested a "fear of too much justice." (*Id.* at p. 339 (dis. opn.).)[55]

As stated above, Justice Brennan criticized the federal standard in his dissent in the *McCleskey* case as a "fear of too much justice."[56] Through the RJA, California rejects the *McCleskey* "purposeful [or intentional] discrimination" standard and allows a showing of discrimination based on implicit bias as follows:[57]

- "In California in 2020, we can no longer accept racial discrimination and racial disparities as inevitable in our criminal justice system and we must act to make clear that this discrimination and these disparities are illegal and will not be tolerated in California, both prospectively and retroactively."[58]
- "Examples of the racism that pervades the criminal justice system are too numerous to list."[59]
- "It is the intent of the Legislature to eliminate racial bias from California's criminal justice system because racism in any form or amount, at any stage of a criminal trial, is intolerable, inimical to a fair criminal justice system, is a miscarriage of justice under Article VI of the California Constitution, and violates the laws and Constitution of the State of California. Implicit bias, although often unintentional and unconscious, may inject racism and unfairness into proceedings similar to intentional bias. The intent of the Legislature is not to punish this type of bias, but rather to remedy the harm to the defendant's case and to the integrity of the judicial system. It is the intent of the Legislature to ensure that race plays no role at all in seeking or obtaining convictions or in sentencing. It is the intent of the Legislature to reject the conclusion that racial disparities within our criminal justice are inevitable, and to actively work to eradicate them."[60]
- "It is the further intent of the Legislature to provide remedies that will eliminate racially discriminatory practices in the criminal justice system, in addition to intentional discrimination. It is the further intent of the Legislature to ensure that individuals have access to all relevant evidence, including statistical evidence,

---

[55] *Young v. Superior Court of Solano County* (2022) 79 Cal.App.5th 138, 151-153.

[56] *McCleskey v. Kemp* (1987) 481 U.S. 279, 339 (Brennan, J., dissenting).

[57] *Bonds v. Superior Court* (2024) 99 Cal.App.5th 821, 828 ["Indeed, the primary motivation for the legislation was the failure of the judicial system to afford meaningful relief to victims of unintentional but *implicit* bias."].

[58] Statutes 2020, chapter 317, section 2(g).

[59] Statutes 2020, chapter 317, section 2(h).

[60] Statutes 2020, chapter 317, section 2(i).

regarding potential discrimination in seeking or obtaining convictions or imposing sentences."[61]

An RJA claim begins when a defendant or petitioner files an RJA motion or petition. For post-judgment petitions, the judge will evaluate whether it alleges any facts that would establish a violation of section 745(a).[62] If so, or on the State Public Defender's request, it will appoint counsel to a petitioner.[63] The newly appointed counsel may amend the petition.[64] The judge then determines if the petition makes a prima facie case.[65] A prima facie showing under the RJA simply requires that the facts alleged, if true, "establish that there is a substantial likelihood that a violation" occurred.[66] A "substantial likelihood" means "more than a mere possibility, but less than a standard of more likely than not."[67] If there is no prima facie case, the petition will be summarily denied with reasons stated on the record.[68]

If there is a prima facie case, the claim continues and the petitioner may request discovery.[69] Because the state may possess or control the relevant evidence, a defendant or petitioner with a prima facia showing may move for disclosure of all potentially relevant information in the state's possession or control and the court "shall" order the records released.[70] And rather than having to meet the rigorous standards of federal case law to obtain discovery by presenting evidence of discriminatory effect and

---

[61] Statutes 2020, chapter 317, section 2(j).

[62] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[63] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[64] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[65] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[66] Penal Code section 745(h)(2), as added by Statutes 2020, chapter 317; *Finley v. Superior Court* (2023) 95 Cal.App.5th 12, 19-25; 23-24 ["At the prima facie stage of a Racial Justice Act motion, by contrast, the trial court must consider whether the motion and its supporting evidence state facts that, "*if true*, establish that there is a substantial likelihood that a violation" occurred (§ 745, subd. (h)(2), italics added), and should not weigh the evidence or make credibility determinations, except in the rare case where the record "irrefutably establishes" that a defendant's allegations are false."].

[67] Penal Code section 745(h)(2), as added by Statutes 2020, chapter 317.

[68] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[69] Penal Code section 745(d), as added by Statutes 2020, chapter 317; *In re Montgomery* (2024) 104 Cal.App.5th 1062, 1071.

[70] Penal Code section 745(d), as added by Statutes 2020, chapter 317.

intent,[71] the RJA's standard for compelling discovery in section 745(d) is relaxed to "good cause." "Good cause" in section 745(d) means "a plausible case, based on specific facts, that any of the four enumerated violations of section 745, subdivision (a) *could or might have* occurred."[72] The bottom line is that claims of racially biased prosecutions can now be commenced and pursued much more easily in California than under federal law.

Next, the court "shall" hold a hearing.[73] Evidence may be presented at the hearing, including statistical evidence, aggregate data, expert testimony, sworn testimony of witnesses, and an independent expert the court may appoint.[74] The court "shall make findings on the record."[75] If a violation is found on a motion during trial, the court "shall impose a remedy" from a statutory list.[76] If a judgment has been entered, the court "shall," under the RJA, vacate the conviction and sentence and find both or either legally invalid, as specified.[77] The court would then either order new proceedings, modify the judgment, or modify the sentence, as specified.[78] No greater sentence may be imposed[79] and the death penalty may not be imposed.[80] Also, to ensure that RJA proceedings are distinct, any other constitutional or statutory remedies of the defendant are not foreclosed.[81]

As indicated above, prior to the test claim statute, the RJA "applie[d] only prospectively in cases in which judgment has not been entered prior to January 1, 2021."[82]

---

[71] *United States v. Armstrong* (1996) 517 U.S. 456.

[72] *Young v. Superior Ct. of Solano County* (2022) 79 Cal.App.5th 138, 144, emphasis added.

[73] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317; Penal Code section 745(c), as added by Statutes 2020, chapter 317.

[74] Penal Code section 745(c)(1), as added by Statutes 2020, chapter 317.

[75] Penal Code section 745(c)(3), as added by Statutes 2020, chapter 317; Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[76] Penal Code section 745(e), as added by Statutes 2020, chapter 317.

[77] Penal Code section 745(e)(2)(A) - (B), as added by Statutes 2020, chapter 317.

[78] Penal Code section 745(e)(2)(A) - (B), as added by Statutes 2020, chapter 317.

[79] Penal Code section 745(e)(2)(A) - (B), as added by Statutes 2020, chapter 317.

[80] Penal Code section 745(e)(3), as added by Statutes 2020, chapter 317; see also *People v. McDaniel* (2021) 12 Cal.5th 97, 141, as modified on denial of rehearing ["Several amici curiae, including Governor Gavin Newsom, advance views of history and social context that link capital punishment with racism."].

[81] Penal Code section 745(e)(4), as added by Statutes 2020, chapter 317.

[82] Penal Code section 745(j), as added by Statutes 2020, chapter 317.

Accordingly, the RJA required the appointment of counsel for habeas corpus petitioners whose judgments were entered on or after January 1, 2021.[83]

B. The Test Claim Statute, the Racial Justice for All Act of 2022 (AB 256), Made the RJA Retroactive and Applicable to a New Class of Habeas Corpus Petitioners Whose Judgments Were Entered *Before* January 1, 2021.

In 2022, the Legislature passed the Racial Justice Act for All, effective January 1, 2023, to apply the RJA retroactively.[84] The claimant seeks reimbursement for costs incurred by the county Public Defender's Office when appointed by the court "commencing January 1, 2024," to represent those petitioners whose criminal judgments have been entered *before* January 1, 2021 ("regardless of when the judgment or disposition became final") and are currently serving a sentence in state prison or county jail, or committed to the Division of Juvenile Justice in accordance with Penal Code sections 745(j)(3) and 1473(f) (which was later renumbered as section 1473(e)).[85]

Penal Code section 745(j)(3), as amended by the test claim statute, now states the following about the code section's application:

> Commencing January 1, 2024, to all cases in which, at the time of the filing of a petition pursuant to subdivision (f) of Section 1473 raising a claim under this section, the petitioner is currently serving a sentence in the state prison or in a county jail pursuant to subdivision (h) of Section 1170, or committed to the Division of Juvenile Justice for a juvenile disposition, *regardless of when the judgment or disposition became final*.[86]

Penal Code section 1473(f), as amended by the test claim statute (and later renumbered as section 1473(e))[87], states the following:

> Notwithstanding any other law, a writ of habeas corpus may also be prosecuted after judgment has been entered based on evidence that a criminal conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745, *if that section applies based on the date of judgment as provided in subdivision (j) of Section 745*. A petition raising a claim of this nature for the first time, or on the basis of new discovery provided by the state or other new evidence that could not have been previously known by the petitioner with due diligence, shall not be deemed a successive or abusive petition. If the petitioner has a habeas corpus petition pending in state court, but it has not yet been decided, the petitioner may amend the existing petition with a claim that the petitioner's

---

[83] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317.

[84] Statutes 2022, chapter 739 (AB 256).

[85] Exhibit A, Test Claim, pages 10-11; Statutes 2023, chapter 381 (SB 97).

[86] Emphasis added.

[87] Statutes 2023, chapter 381 (SB 97).

> conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745. *The petition shall state if the petitioner requests appointment of counsel and the court shall appoint counsel if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of Section 745 or the State Public Defender requests counsel be appointed.* Newly appointed counsel may amend a petition filed before their appointment. The court shall review a petition raising a claim pursuant to Section 745 and shall determine if the petitioner has made a prima facie showing of entitlement to relief. If the petitioner makes a prima facie showing that the petitioner is entitled to relief, the court shall issue an order to show cause why relief shall not be granted and hold an evidentiary hearing, unless the state declines to show cause. The defendant may appear remotely, and the court may conduct the hearing through the use of remote technology, unless counsel indicates that the defendant's presence in court is needed. If the court determines that the petitioner has not established a prima facie showing of entitlement to relief, the court shall state the factual and legal basis for its conclusion on the record or issue a written order detailing the factual and legal basis for its conclusion.[88]

The Assembly Committee on Appropriations, citing the Department of Justice, estimates that 100,000 claims could be filed under the RJA as amended by the test claim statute.[89] According to an article titled "California's Groundbreaking Racial Justice Act Cuts Its Teeth in Contra Costa," it is estimated that 90,000 incarcerated persons may have claims under the RJA as amended by the test claim statute:

> As of Jan. 1, people who are currently and formerly incarcerated are now able to challenge their convictions using the RJA. Minsker said more than three-quarters of the state's prison population — about 90,000 people — could have viable claims. If implemented, she said, the law could help end mass incarceration in California.[90]

As indicated above, starting January 1, 2024, habeas corpus petitions may be pursued by all persons currently serving a sentence in state prison or county jail, or committed to the Division of Juvenile Justice, regardless of their judgment date.

An example of the test claim statute's retroactivity application is provided in *Bemore v. Superior Court*, a case brought by Terry Bemore, a prisoner convicted in 1985. Mr. Bemore made an RJA claim, and the court wrote: "Section 1473(e) is clear, and all parties agree that it requires the trial court to appoint counsel to represent Bemore in

---

[88] Emphasis added.

[89] Exhibit N (4), Assembly Committee on Appropriations, April 14, 2021, AB 256 as Amended March 16, 2021, page 1.

[90] Exhibit N (5), California's Groundbreaking Racial Justice Act Cuts Its Teeth in Contra Costa*,* Annelise Finney, February 13, 2024, page 9.

postconviction RJA habeas proceedings in accordance with the authority cited above."[91] *Bemore* further explains that "[Penal Code] section 987.2 contains the provisions that govern the selection of appointed counsel to pursue noncapital, postconviction RJA claims in superior court."[92] Penal Code "section 987.2(e) directs trial courts to 'first utilize' the services of the public defender to provide criminal defense services for indigent defendants."[93] If the courts must resort to assigning private counsel for the petitioner, the county must pay reasonable compensation for that service.[94]

In addition to the original procedures for enforcement of section 745(a)'s prohibition of racial discrimination in prosecution, the test claim statute added a few modifications and clarifications. Judges shall disqualify themselves if a 745(a) motion is based on their conduct.[95] Timeliness of a motion at trial is required or the motion may be deemed waived.[96] Regarding evidence on motions, "out-of-court statements that the court finds trustworthy and reliable, statistical evidence, and aggregated data are admissible for the limited purpose of determining whether a violation of subdivision (a) has occurred."[97] It is also further emphasized that "[t]he defendant does not need to prove intentional discrimination."[98] The prosecution may obtain a protective order against disclosure of certain information if a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or another protective order.[99] The court may also modify the judgment to a lesser included or lesser related offense *if* the only violation found is under section 745(a)(3), which is the finding that a defendant was charged or convicted of a more serious offense than defendants of other races who engaged in similar conduct and were similarly situated.[100] It has also been clarified that the procedures apply to "adjudications to transfer a juvenile case to adult court."[101] Lastly,

---

[91] *Bemore v. Superior Ct. of San Diego County* (2025) 108 Cal. App. 5th 1125, 1147.

[92] *Bemore v. Superior Court of San Diego County* (2025) 108 Cal.App.5th 1125, 1146.

[93] *Bemore v. Superior Court of San Diego County* (2025) 108 Cal.App.5th 1125, 1152.

[94] Penal Code section 987.2(a) ["In any case in which a person, including a person who is a minor, desires but is unable to employ counsel, and in which counsel is assigned in the superior court to represent the person in a criminal trial, proceeding, or appeal, the following assigned counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county . . . ."].

[95] Penal Code section 745(b), as amended by Statutes 2022, chapter 739.

[96] Penal Code section 745(c), as amended by Statutes 2022, chapter 739.

[97] Penal Code section 745(c)(1), as amended by Statutes 2022, chapter 739.

[98] Penal Code section 745(c)(2), as amended by Statutes 2022, chapter 739.

[99] Penal Code section 745(d), as amended by Statutes 2022, chapter 739.

[100] Penal Code section 745(e)(2)(A), as amended by Statutes 2022, chapter 739.

[101] Penal Code section 745(f), as amended by Statutes 2022, chapter 739.

definitions were clarified as to the phrases "more frequently sought or obtained," "relevant factors," and "similarly situated."[102]

III. Positions of the Parties

A. County of Los Angeles

The claimant asserts the test claim statute imposes a reimbursable state-mandated program. The claimant states in the Test Claim:

> Defendants do not have a constitutional right to court-appointed counsel in post-conviction proceedings, unless a State or federal statute specifies otherwise. AB 256 now requires the Public Defender to represent State prisoners that allege a racially biased prosecution. The petitions contemplated by the Racial Justice Act for All, and specifically PC § 745(j)(3), involve State prisoners who have already been convicted and sentenced.[103]

Attached to the Test Claim is the Declaration of Elizabeth Lashley-Haynes, a Deputy Public Defender for Los Angeles County and senior attorney for the Public Defender's Racial Justice Act Unit, signed December 9, 2024.[104] Ms. Haynes declares that Penal Code section 745(j)(3) and section 1473(e) (originally numbered section 1473(f)) newly require legal representation for RJA habeas corpus petitioners with pre-January 1, 2021, judgments.[105]

The claimant asserts that before the test claim statute was enacted, individuals serving state prison sentences were not eligible to file RJA petitions.[106] Accordingly, the claimant states, public defenders were not required to represent them.[107]

The claimant asserts that the test claim statute imposes new mandated activities upon county public defenders. Specifically, "the courts appoint the Public Defender to provide representation to petitioners claiming that race, ethnicity, or national origin bias occurred in their case."[108] This, the claimant states, necessitates conflict checks, investigation of

---

[102] Penal Code section 745(h), as amended by Statutes 2022, chapter 739.

[103] Exhibit A, Test Claim, page 10.

[104] Exhibit A, Test Claim, pages 17-18 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[105] Exhibit A, Test Claim, page 17, paragraphs 2, 4, and 5 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[106] Exhibit A, Test Claim, page 17, paragraph 3 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[107] Exhibit A, Test Claim, page 17, paragraph 4 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[108] Exhibit A, Test Claim, page 10.

the petitioner's claims, retrieval and review of records, communication with the petitioner in prison, drafting and filing of writs or motions, court appearances, and documentation of files.[109]

The claimant declares it first incurred costs under the test claim statute on January 1, 2024, in the amount of $155,667 for FY 2023-2024.[110] It estimates costs of $657,000 for FY 2024-2025[111] and a statewide cost estimate of $2,190,000 for the same fiscal year.[112] The claimant calculated this statewide cost estimate by using a statistic from the Vera Institute of Justice that 30% of the state prison population came from Los Angeles County in 2021.[113] The claimant declares it has received no funds from any state, federal, or other non-local agency for the program, and that its general funds must be used.[114]

The claimant asserts that the test claim statute imposes requirements unique to local government because the services are provided by local agencies.[115] It additionally asserts that the test claim statute carries out state policy through mandated activities.[116]

The claimant finally asserts that none of the "seven disclaimers" in Government Code section 17556 apply to excuse the state from reimbursement.[117]

---

[109] Exhibit A, Test Claim, page 10; page 17, paragraph 6 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[110] Exhibit A, Test Claim, page 11; page 17, paragraphs 7-8 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[111] Exhibit A, Test Claim, page 11; page 17, paragraph 9 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[112] Exhibit A, Test Claim, page 11; page 18, paragraph 10 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[113] Exhibit A, Test Claim, page 18, paragraph 10, fn. 1 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[114] Exhibit A, Test Claim, page 11; page 18, paragraph 11 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[115] Exhibit A, Test Claim, page 12.

[116] Exhibit A, Test Claim, page 13.

[117] Exhibit A, Test Claim, pages 13-14.

The claimant filed rebuttal comments on April 17, 2025.[118] In response to Finance's comment that Government Code section 17556(g) should apply to deny the Test Claim, the claimant disagrees, stating that "AB 256 amended the Racial Justice Act (RJA) of 2020 to apply the RJA retroactively to ensure equal access to all."[119] It states:

> AB 256 offers a procedural remedy to challenge the existence of racial bias, but it does not change the penalty for crimes. … Having a sentence changed is only a possible remedy and not a right or guarantee. …
>
> Additionally, imposing a new or lesser sentence is not an automatic function of an RJA violation.[120]

The claimant further distinguishes this claim from the denied Test Claim *Youth Offender Parole Hearing*s, 17-TC-29, addressed in *County of San Diego v. Commission on State Mandates*.[121] In *County of San Diego*, the Court of Appeal applied section 17556(g) because "parole flowed directly from the parolee's underlying crime and was a direct consequence of a criminal conviction."[122] But here, the claimant asserts, "any remedy that a court imposes following an RJA violation is unrelated to the crime perpetrated by the convicted person. Rather, the remedy directly relates to eliminating discriminatory practices in the justice system."[123]

The claimant did not file comments on the Draft Proposed Decision.

B. Department of Finance

Finance contends that the test claim statute does not impose a reimbursable state-mandated program under Government Code section 17556(g). Finance characterizes the test claim statute as follows:

> AB 256 authorizes a court to vacate an existing sentence and impose a new sentence when it finds that the original sentence had been imposed on discriminatory grounds. This authority to change sentences represents a change in the penalty for a crime or infraction and therefore falls within an established exception to the requirement for state reimbursement. For this reason, Finance believes the Commission should deny this test claim in its entirety.[124]

---

[118] Exhibit C, Claimant's Rebuttal Comments.

[119] Exhibit C, Claimant's Rebuttal Comments.

[120] Exhibit C, Claimant's Rebuttal Comments.

[121] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625.

[122] Exhibit C, Claimant's Rebuttal Comments citing *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 643.

[123] Exhibit C, Claimant's Rebuttal Comments citing Statutes 2020, chapter 317, section 2(i) (AB 2542).

[124] Exhibit B, Finance's Comments on the Test Claim, page 2.

Finance did not file comments on the Draft Proposed Decision.

C. Interested Parties and Persons

1. County of Santa Clara

The County of Santa Clara is an interested party under section 1181.2(i) of the Commission's regulations and filed comments joining the claimant in its arguments and in rebuttal to Finance.[125] The County of Santa Clara makes four separate arguments in rebuttal to Finance: (1) that "the remedies available under AB 256 are intended to cure the results of the State's unlawful bias, not change the penalty for any crime or infraction that was unlawfully imposed in the first instance," (2) that if it is decided that the section 745(e)(3) death penalty provision is a "change in penalty" under Government Code 17556(g), then "only habeas petitions brought in [death penalty cases] should be excluded from reimbursement," (3) that Government Code section 17556(g) is unconstitutional as to the "change in penalty" clause of section 17556(g) on which Finance relies because that clause is not in Article XIII B, section 6(a)(2) and so voters did not authorize it, and (4) that there is no definition of a new crime or change to the definition of an existing crime.[126]

2. Solano County Office of the Public Defender, Contra Costa Office of the Public Defender, Ella Baker Center for Human Rights, Monterey County Office of the Public Defender, County of Ventura Office of the Public Defender, University of San Francisco Racial Justice Clinic, and Alameda County Public Defender

Five county public defenders and three non-profit organizations (interested persons under section 1181.2(j) of the Commission's regulations) filed comments in support of the Test Claim.[127] Most of the comments were identical. The identical comments were originally stated by the Solano County Office of the Public Defender as follows:

---

[125] Exhibit K, County of Santa Clara's Comments on the Test Claim, page 1.

[126] Exhibit K, County of Santa Clara's Comments on the Test Claim, pages 3-6.

[127] Exhibit D, Solano County Office of the Public Defender's Comments on the Test Claim; Exhibit E, Contra Costa Office of the Public Defender's Comments on the Test Claim; Exhibit F, Ella Baker Center for Human Rights' Comments on the Test Claim [The Ella Baker Center for Human Rights "works to advance racial and economic justice to ensure dignity and opportunity for low-income people and people of color."]; Exhibit G, Monterey County Office of the Public Defender's Comments on the Test Claim; Exhibit H, County of Ventura Office of the Public Defender's Comments on the Test Claim; Exhibit I, University of San Francisco Racial Justice Clinic's Comments on the Test Claim [The University of San Francisco (USF) Racial Justic Clinic "is dedicated to advocating for those who have suffered discrimination, marginalization, and oppression in the criminal legal system based on their race. Among its several projects, the clinic represents currently incarcerated Californians who are eligible for relief under the RJA."]; Exhibit J, Alameda County Public Defender's Late Comments on the Test Claim;

The enactment of AB 256 (2022, Kalra) has created an additional financial burden to counties, like the burden the County of Los Angeles has incurred since 2024 because of the new applicability of the RJA to retroactive cases. Their claim outlines the new costs the public defender's office has incurred to effectuate its new obligations to clients. This new type of appointment to defendants whose convictions are otherwise final has increased the responsibilities from what the public defender's office has previously performed, as habeas petitions are not a type of litigation these offices had traditionally handled before.

Reimbursement for these new, additional costs is crucial to the effective implementation of RJA and AB 256. The Legislature has made clear its intention to "eliminate racial bias from California's criminal justice system" because "racism in any form or amount, at any stage of a criminal trial, is intolerable, inimical to a fair criminal justice system, is a miscarriage of justice . . . ." (A.B. 2542, 2020 Gen. Assemb., Reg. Sess. § 2(i) (Cal. 2020).) At this time, the county public defender has taken up the role of investigating RJA claims, collecting and reviewing records, communicating with incarcerated clients, drafting legal materials, and providing representation in court where needed while not receiving additional funding for these new activities. Executing these new responsibilities places the public defender's office in an untenable position if required to continue to do so without appropriate funding.

The California Court of Appeal's recent decision cements the new obligation the public defender's office now carries as a result of the enactment of AB256: *Bemore v. Superior Court of San Diego County* recognized the new right created for indigent RJA petitioners, arising "under a new statutory provision enacted by the RJA[:]" "In 2022, the RJA amended [Penal Code] section 1473 [– the statute codifying grounds and procedures for prosecuting a writ of habeas corpus –] to add subdivision(e) to provide specific procedures for litigating RJA claims including the showing that is required to have counsel appointed at public expense." (*Bemore v. Superior Ct. of San Diego Cnty*., No. D084579, 2025 WL 520546, at *10 (Cal. Ct. App. Feb. 18, 2025).) Furthermore, the Court of Appeal held that ". . . [Penal Code s]ection 987.2 is the exclusive mechanism for the selection and assignment of counsel to represent indigent litigants in superior court in non-capital [RJA] habeas corpus proceedings[.]" (*Bemore*, *9.) Penal Code section 987.2 directs the court to first select public defenders to be appointed in representing indigent people bringing retroactive RJA claims. This means that in counties where there is a public defender's office, the current law dictates that that office

Exhibit K, County of Santa Clara's Comments on the Test Claim; Exhibit L, California State Association of Counties' Comments on the Test Claim.

will be the first-in-line to be appointed counsel in these retroactive RJA claims.

The Racial Justice Act is one of the most important and consequential laws enacted in this state. Without appropriate reimbursement for the legislature-created mandate, the purpose and intent of the RJA would be rendered meaningless. Failure to recognize the mandate would also create geographic disparities between counties as implementation of the law would depend on counties' ability to provide or seek funds independently, denying justice to those who have been impacted by racism and risking the erosion of public confidence in the court's responsibility to ensure fair and equitable administration of justice. We urge you to approve the County of Los Angeles' test claim, Criminal Procedure: Discrimination, 24-TC-02.[128]

These comments also discuss the increased workload as a result of the test claim statute. The Contra Costa Office of the Public Defender has "multiple attorneys representing clients on retroactive RJA claims, in addition to ancillary staff supporting their representation" and has "expended resources on gathering data for expert review of materials."[129] The Monterey County Office of the Public Defender adds that its "office has been appointed in numerous cases wherein the client is seeking 'retroactive relief' under the RJA" and that implementation of the test claim statute "has added significant financial strain on our office, similar to the burden the County of Los Angeles has faced."[130] The County of Ventura Office of the Public Defender is now "identifying and litigating claims involving the Racial Justice Act."[131] It "currently has four attorneys working on Racial Justice Act claims. Two attorneys are senior attorneys and two attorneys are Level III attorneys. One of the attorney's sole duty is to work on retroactive RJA claims."[132]

3. California State Association of Counties

The California State Association of Counties (CSAC) argues that Government Code section 17556(g) does not apply. It states that "the relevant provision of the Racial Justice Act for All [is] Penal Code section 745, subdivision (j)(3), [which] merely authorizes certain defendants to petition the court to challenge alleged racial, ethnic, or

---

[128] Exhibit D, Solano County Office of the Public Defender's Comments on the Test Claim, pages 1-2.

[129] Exhibit E, Contra Costa Office of the Public Defender's Comments on the Test Claim, page 1.

[130] Exhibit G, Monterey County Office of the Public Defender's Comments on the Test Claim, page 1.

[131] Exhibit H, County of Ventura Office of the Public Defender's Comments on the Test Claim, page 1.

[132] Exhibit H, County of Ventura Office of the Public Defender's Comments on the Test Claim, page 2.

national origin bias in their California state convictions or sentences."[133] CSAC further states:

> [T]he court has a number of options, including: denying the petition as unfounded; vacating the conviction and sentence and ordering new proceedings (which may or may not result in a different sentence); or vacating only the sentence and imposing a new sentence (which the statute states may not be longer than the original sentence but is silent on whether it could be the same).[134]

Thus, vacating a sentence and imposing a new one, as Finance points out, is possible but not certain per CSAC, and therefore Government Code section 17556(g) does not apply. CSAC reasons that "the range of possible sentences for underlying crimes remains unchanged by the test claim statute, and any given defendant's actual sentence may also remain unchanged after filing the petition authorized by the statute."[135]

CSAC also distinguishes *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625. CSAC asserts that *County of San Diego* "emphasized that the length of the imprisonment prior to parole eligibility [was] itself a substantive aspect of the sentence" and that the "court characterized [the change imposed by the test claim statutes there] as 'guaranteeing' parole eligibility, which 'altered defendants' substantive punishments.'"[136] Here, CSAC reasons:

> [A]ll that is guaranteed to defendants is the ability to petition the court for consideration of their bias claims. Those claims may be rejected or may result in proceedings that impose the same sentence. There is nothing akin to the guarantee of a change to a substantive element of a punishment that was present in the *Franklin* proceedings test claim.[137]

CSAC also asserts that Government Code 17556(g) is "constitutionally suspect."[138] It points out that article XIII B, section 6 of the California Constitution exempts legislation defining a new crime or changing an existing definition of a crime" but not a change in

---

[133] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 1.

[134] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 1.

[135] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 2.

[136] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 2.

[137] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 2.

[138] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 2.

penalty.[139] Considering this difference in language, "CSAC urges the Commission not to adopt an overly broad reading of Section 17556(g)."[140]

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

> Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service…

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[141] Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] …"[142]

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.[143]
2. The mandated activity constitutes a "program" that either:
   a. Carries out the governmental function of providing a service to the public; or
   b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.[144]
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or

---

[139] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 2.

[140] Exhibit L, California State Association of Counties' Comments on the Test Claim, page 2.

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

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

[143] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

[144] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56.

executive order and it increases the level of service provided to the public.[145]

4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.[146]

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.[147] The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.[148] In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[149]

A. The Test Claim Is Timely Filed with a Potential Period of Reimbursement Beginning July 1, 2023.

A test claim must be filed within 12 months of the effective date of a statute or an executive order, or within 12 months of incurring increased costs as a result of the statute or executive order, whichever is later.[150] The Commission's regulations clarify that "within 12 months of incurring costs" means "within 12 months (365 days) of *first* incurring costs as a result of a statute or executive order, whichever is later."[151]

The effective date of the test claim statute is January 1, 2023.[152] The claimant filed the Test Claim on December 19, 2024, more than 12 months after the effective date of the statute.[153]

The claimant contends that it first incurred costs on January 1, 2024, and submits a declaration signed under penalty of perjury from Elizabeth Lashley-Haynes, Los

---

[145] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal3d 830, 835.

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

[147] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

[148] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

[149] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 [citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817].

[150] Government Code section 17551(c).

[151] California Code of Regulations, title 2, section 1183.1(c), emphasis added.

[152] California Constitution, article IV, section 8(c)(1); Government Code section 9600.

[153] Exhibit A, Test Claim.

Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney, stating "[t]he Public Defender first incurred costs related to implementing the mandates in PC § 745(j)(3) on January 1, 2024."[154]

Additionally, the operative date of Penal Code section 745(j)(3), which applies the RJA retroactively is January 1, 2024.[155] Consistently, Penal Code section 1473(f) (later renumbered section 1473(e)) "applies based on the date of the judgment as provided in subdivision (j) of Section 745."[156] Given the operative date of January 1, 2024, and as the claimant declares under penalty of perjury that it first incurred costs on January 1, 2024, the Test Claim was timely filed within 12 months of first incurring costs on December 19, 2024.

While costs were first incurred by the claimant on January 1, 2024, the potential period of reimbursement formally begins on July 1, 2023. Government Code section 17557(e) provides that a Test Claim "shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." Because the claimant filed the Test Claim on December 19, 2024 (during FY 2024-2025), the potential period of reimbursement begins at the start of the prior fiscal year, which is July 1, 2023.

B. The Test Claim Statute Imposes a Reimbursable State-Mandated Program on Counties.

1. Penal Code Sections 745(j)(3) and 1473(f), as Amended by the Test Claim Statute, Impose a New Requirement for County Attorneys Appointed by the Court to Represent Indigent Habeas Corpus Petitioners Whose Criminal Judgments Have Been Entered *Before* January 1, 2021, and Are Currently Serving a Sentence in State Prison or County Jail or Committed to the Division of Juvenile Justice, with Their Petition Alleging a Violation of the RJA under Penal Code Section 745(a).

Article XIII B, section 6 was adopted to prevent the state from forcing extra programs on local government each year in a manner that negates their careful budgeting of increased expenditures counted against the local government's annual spending limit. Thus, article XIII B, section 6 requires a showing that a test claim statute or executive order mandates *new* activities and associated costs compared to the prior year.[157]

---

[154] Exhibit A, Test Claim, page 17, paragraph 7 (Declaration of Elizabeth Lashley-Haynes, Los Angeles County Deputy Public Defender IV and RJA Unit Senior Attorney).

[155] Penal Code section 745(j)(3), as amended by Statutes 2022, chapter 751.

[156] Penal Code section 1473(e), as amended by Statutes 2022, chapter 751, and as relocated from 1473(f) to 1473(e) with no change in language by Statutes 2023, chapter 381, section 1.

[157] California Constitution, articles XIII B, sections 1, 8(a) and (b); *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; *Hayes v. Commission on State Mandates* (1992) 11

To make the RJA retroactive, Penal Code sections 745(j)(3) and 1473(f) (later renumbered as 1473(e)), as amended by the test claim statute, require, beginning January 1, 2024, the appointment of counsel for indigent habeas corpus petitioners whose judgments were entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail, or committed to the Division of Juvenile Justice, in their petition alleging a violation of the RJA under Penal Code section 745(a), which prohibits the state from obtaining a criminal conviction or imposing a sentence on the basis of race, ethnicity, or national origin.

Penal Code section 745(j)(3), reads, in relevant part:

> This section applies as follows:
>
> …
>
> (3) Commencing January 1, 2024, to all cases in which, at the time of the filing of a petition pursuant to subdivision (e) of Section 1473 raising a claim under this section, the petitioner is currently serving a sentence in the state prison or in a county jail pursuant to subdivision (h) of Section 1170, or committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgment or disposition became final.[158]

Before the test claim statute, section 745(j) said: "This section applies only prospectively in cases in which judgment *has not been entered prior to January 1, 2021*."[159] Thus, section 745(j)(3) as amended by the test claim statute newly requires the habeas corpus petition procedure to be made available retroactively to the class of indigent incarcerated petitioners with judgments entered before January 1, 2021.

In addition, Penal Code section 1473(f) requires the appointment of counsel on these petitions for writs of habeas corpus. Section 1473(f), as amended by the test claim statute and later renumbered to section 1473(e), reads:

> Notwithstanding any other law, *a writ of habeas corpus may also be prosecuted after judgment has been entered* based on evidence that a criminal conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745, *if that section applies based on the date of judgment as provided in subdivision (j) of Section 745.* A petition raising a claim of this nature for the first time, or on the basis of new discovery provided by the state or other new evidence that could not have been previously known by the petitioner with due diligence, shall not be deemed a successive or abusive petition. If the petitioner has a habeas corpus petition pending in state court, but it has not yet been decided, the petitioner may amend the existing petition with a claim that the

---

Cal.App.4th 1564, 1595; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763.

[158] Penal Code section 745(j)(3).

[159] Penal Code section 745(j), as added by Statutes 2020, chapter 317, emphasis added.

> petitioner's conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745*. The petition shall state if the petitioner requests appointment of counsel and the court shall appoint counsel if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of Section 745 or the State Public Defender requests counsel be appointed*. Newly appointed counsel may amend a petition filed before their appointment. The court shall review a petition raising a claim pursuant to Section 745 and shall determine if the petitioner has made a prima facie showing of entitlement to relief. If the petitioner makes a prima facie showing that the petitioner is entitled to relief, the court shall issue an order to show cause why relief shall not be granted and hold an evidentiary hearing, unless the state declines to show cause. The defendant may appear remotely, and the court may conduct the hearing through the use of remote technology, unless counsel indicates that the defendant's presence in court is needed. If the court determines that the petitioner has not established a prima facie showing of entitlement to relief, the court shall state the factual and legal basis for its conclusion on the record or issue a written order detailing the factual and legal basis for its conclusion.[160]

Like section 745(j)(3), the predecessor to section 1473(f) was prospective only. The previous version of section 1473(f) stated that an RJA writ of habeas corpus could be filed "if judgment was entered *on or after January 1, 2021*."[161]

Thus, sections 745(j)(3) and 1473(f) (later renumbered as section 1473(e)) newly allow the filing of RJA habeas corpus petitions from incarcerated petitioners whose judgments were entered *before* January 1, 2021, and newly require appointment of counsel to represent indigent petitioners when they allege facts that would establish a violation under section 745. Counties have no pre-existing duty (statutory or constitutional) to provide legal representation to the newly eligible indigent petitioners whose judgments were entered before January 1, 2021. No statute previously required this legal representation because the RJA did not exist until 2020, at which time it only required representation regarding judgments entered on or after January 1, 2021.

In addition, there was no pre-existing constitutional duty of representation because habeas corpus petitions are not criminal actions. Instead, they collaterally attack a prior criminal judgment and are considered civil in nature,[162] and, thus, there is no constitutional right to the appointment of counsel at the public's expense. The U.S.

---

[160] Emphasis added.

[161] Penal Code section 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2020, chapter 317, emphasis added.

[162] *Maas v. Superior Court* (2016) 1 Cal.5th 962, 975 ["A habeas corpus proceeding is not a criminal action. Rather, as relevant here, it is an independent, collateral challenge to an earlier, completed criminal prosecution."]; *In re Barnett* (2003) 31 Cal.4th 466, 474 citing *Pennsylvania v. Finley* (1987) 481 U.S. 551, 556-557 and *In re Scott* (2003) 28 Cal.4th 783, 815.

Supreme Court has described collateral attacks on judgments as distinctly civil, with no right to counsel as there was in their criminal case:

> Postconviction relief is even further removed from the criminal trial than is discretionary direct review. It is not part of the criminal proceeding itself, and it is in fact considered to be civil in nature.[163]
>
> We have never held that prisoners have a constitutional right to counsel when mounting collateral attacks upon their convictions, see *Johnson v. Avery,* 393 U.S. 483, 488, 89 S.Ct. 747, 750, 21 L.Ed.2d 718 (1969), and we decline to so hold today. Our cases establish that the right to appointed counsel extends to the first appeal of right, and no further.[164]
>
> States have no obligation to provide this avenue of relief, . . . , and when they do, the fundamental fairness mandated by the Due Process Clause does not require that the State supply a lawyer as well.[165]

Just as there is no federal constitutional duty to provide counsel on a postconviction collateral attack to a judgment, there is also no existing state constitutional duty. The California Supreme Court has said: "California likewise confers no constitutional right to counsel for seeking collateral relief from a judgment of conviction via state habeas corpus proceedings."[166]

As one court of appeal recently stated, "[a]lthough there is no state or federal constitutional right to counsel to assist with a collateral attack on a criminal judgment, California confers a statutory right to counsel in postconviction proceedings under some circumstances," which the state has done here.[167]

In addition to not requiring the appointment of counsel, existing federal law requires a petitioner to prove explicit or purposeful discrimination for a cause of action under the equal protection clause and does not allow a cause of action based on implicit discrimination, which is allowed by Penal Code section 745. In *McCleskey v. Kemp*, the U.S. Supreme Court concluded that a statistical showing that race likely influenced the imposition of the death penalty was insufficient to warrant reversal of the sentence because "to prevail under the Equal Protection Clause, [the defendant] must prove that the decisionmakers in *his* case acted with discriminatory purpose."[168] As seen in the legislative findings listed in the Background, the RJA sets higher civil standards by

---

[163] *Pennsylvania v. Finley* (1987) 481 U.S. 551, 556–57.

[164] *Pennsylvania v. Finley* (1987) 481 U.S. 551, 555.

[165] *Pennsylvania v. Finley* (1987) 481 U.S. 551, 557.

[166] *In re Barnett* (2003) 31 Cal.4th 466, 475.

[167] *Bemore v. Superior Court of San Diego County* (2025) 108 Cal.App.5th 1125, 1146.

[168] *McCleskey v. Kemp* (1987) 481 U.S. 279, 292.

recognizing implicit bias through statistical evidence. By recognizing and giving effect to implicit discrimination, the RJA "is the first of its kind in the country."[169]

Accordingly, the requirement in Penal Code sections 745(j)(3) and 1473(f), as amended by the test claim statute, to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the RJA under Penal Code section 745(a), is a new requirement imposed by the state. Representation begins upon appointment by the court after the petition is filed. Pursuant to Penal Code section 1473(f) (later renumbered as section 1473(e)) the petition is filed first, without the help of appointed counsel and counsel is appointed by the court if the petitioner is indigent and the petition alleges facts establishing a violation of section 745(a) or the State Public Defender requests that counsel be appointed.

The test claim statute further describes the scope of the appointed counsel's duties. The "[n]ewly appointed counsel may amend a petition filed before their appointment."[170] The court shall then review a petition raising a claim pursuant to Section 745 and shall determine if the petitioner has made a prima facie showing of entitlement to relief.[171] A "prima facie showing" means

> that the defendant produces facts that, if true, establish that there is a substantial likelihood that a violation of subdivision (a) occurred. For purposes of this section, a "substantial likelihood" requires more than a mere possibility, but less than a standard of more likely than not.[172]

If the petition fails to meet the prima facie standard, the court will summarily deny the petition, stating the factual and legal basis for its conclusion on the record or issue a written order detailing the same.[173] A county public defender's representation would end at this point because a denial at the prima facie stage is not appealable.[174]

---

[169] Exhibit N (5), California's Groundbreaking Racial Justice Act Cuts Its Teeth in Contra Costa*,* Annelise Finney, February 13, 2024, page 2; Exhibit N (2), The California Racial Justice Act of 2020, Explained, Hoang Pham, April 22, 2024, page 1; *Young v. Superior Court* (2022) 79 Cal.App.5th 138, 165 ["By endorsing statistics as an appropriate mode of proof and eliminating any requirement of showing discriminatory purpose, the Racial Justice Act revitalizes the venerable principle, recognized 135 years ago in *Yick Wo [v. Hopkins* (1886) 118 U.S. 356] that we must offer a remedy where a facially neutral law is applied with discriminatory effect."].

[170] Penal Code section 1473(f) (later renumbered as section 1473(e)).

[171] Penal Code section 1473(f) (later renumbered as section 1473(e)).

[172] Penal Code section 745(h)(2).

[173] Penal Code section 1473(f) (later renumbered as section 1473(e)).

[174] Penal Code section 1473(f) (later renumbered as section 1473(e)); *Maas v. Superior Court* (2016) 1 Cal.5th 962, 974; *In re Montgomery (2024)* 104 Cal.App.5th 1062, 1067.

If the petitioner makes a prima facie showing of a Penal Code section 745(a) violation, the court shall issue an order to show cause why relief shall not be granted and hold an evidentiary hearing, unless the state declines to show cause, and the appointed counsel is required to represent the petitioner at this hearing.[175] The petitioner may appear remotely, and the court may conduct the hearing through the use of remote technology, unless counsel indicates that the petitioner's presence in court is needed.[176]

Appointed counsel may also file a motion seeking discovery of evidence relevant to the case and represent the petitioner during the hearing on any discovery motion.[177] A motion filed under this section shall describe the type of records or information sought by the petitioner and upon a showing of good cause, the court shall order the records to be released.[178]

Appointed counsel's representation will continue until the end of the evidentiary hearing required under Penal Code section 1473. If the court finds that the conviction was obtained in violation of Penal Code section 745(a), the court shall vacate the conviction and the sentence, find that it is legally invalid, and order new criminal proceedings consistent with section 745(a).[179] If the only violation is of section 745(a)(3) — that the petitioner was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the petitioner's race, ethnicity, or national origin in the county where the convictions were sought or obtained — the court may modify the judgment to a lesser included or lesser related offense, and on resentencing, the court shall not impose a new sentence greater than that previously imposed.[180] If the only violation is that the *sentence* was sought, obtained, or imposed in violation of section 745(a), the court shall vacate the sentence, find it legally invalid, and impose a new sentence not greater than that previously imposed.[181] The petitioner's appointed counsel's representation concludes once one of these remedies for postconviction relief, *if any*, is imposed.

2. The New Requirement Imposed by Penal Code Sections 745(j)(3) and 1473(f), as Amended by the Test Claim Statute, Is Mandated by the State.

A requirement is mandated by the state under article XIII B, section 6 of the California Constitution when the test claim statute legally compels local government to act.

---

[175] Penal Code section 1473(f) (later renumbered as section 1473(e)).

[176] Penal Code section 1473(f) (later renumbered as section 1473(e)).

[177] Penal Code section 745(d).

[178] Penal Code section 745(d).

[179] Penal Code section 745(e)(2)(A).

[180] Penal Code section 745(e)(2)(A).

[181] Penal Code section 745(e)(2)(B).

> Legal compulsion occurs when a statute or executive action uses mandatory language that " 'require[s]' or 'command[s]' " a local entity to participate in a program or service. (*Kern*, *supra*, 30 Cal.4th at p. 741, 134 Cal.Rptr.2d 237, 68 P.3d 1203; see *Long Beach Unified Sch. Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174, 275 Cal.Rptr. 449 [construing the term "mandates" in art. XIII B, § 6 to mean " 'orders' or 'commands' "].) Stated differently, legal compulsion is present when the local entity has a mandatory, legally enforceable duty to obey. This standard is similar to the showing necessary to obtain a traditional writ of mandate, which requires the petitioning party to establish the respondent has "a clear, present, and usually ministerial duty to act. …[182]

Penal Code section 1473(f) (later renumbered as section 1473(e)) says that the court "*shall appoint counsel"* if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of section 745 or the State Public Defender requests counsel be appointed. The word "shall" has no express definition in the Penal Code. However, when construed in the context of the language and the legislative intent of the test claim statute, the word "shall" here is mandatory.[183]

The plain language of the test claim statute requires the court to appoint counsel *if* the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of section 745 or the State Public Defender requests counsel be appointed. The court has no discretion with the appointment of counsel when these facts are presented and, thus, the requirement to appoint counsel to represent the indigent petitioner is not imposed at the discretion of the court.[184]

Moreover, the courts have interpreted Penal Code section 1473(f) as "*requiring* the appointment of counsel to pursue an RJA petition."[185] The courts have further concluded that the "statutory language in section 1473(e) [as renumbered] makes it clear that RJA habeas petitioners are entitled to the appointment of counsel based on an assessment of whether the habeas petition alleges facts that would establish a violation of the RJA."[186] The courts have also found the word "shall" is mandatory in similar statutes requiring the appointment of counsel for capital defendant habeas

---

[182] *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

[183] *People v. Lara* (2010) 48 Cal.4th 216, 227.

[184] Mandates imposed by the courts are not subject to reimbursement under article XIII B, section 6. (California Const., art. XIII B, section 9(b) ["appropriations subject to limitations" do not include "appropriations required to comply with mandates from the courts"].)

[185] *People v. Wilson* (2024) 16 Cal.5th 874, 960, emphasis added.

[186] *McIntosh v. Superior Court of San Diego County* (2025) 110 Cal.App.5th 33, 46.

corpus petitioners for purposes of post-conviction proceedings.[187] When the Legislature uses the same language in a related statute, courts presume the Legislature intended the language to have the same meaning.[188]

Finally, if Penal Code section 1473(f) were not to be enforced, the purpose of the test claim statute to eliminate racism in criminal prosecution would be largely defeated.[189] Without characterizing the appointment of counsel as mandatory, indigent inmates may be able to make claims of racial discrimination in the prosecution or sentencing of their crimes, but without the assistance necessary to be effective.

Therefore, the word "shall" in the test claim statute is mandatory and imposes a legally enforceable duty on the county to provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, with their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

3. The New State-Mandated Requirement Imposed by Penal Code Sections 745(j)(3) and 1473(f) (Later Renumbered as Section 1473(e)) Is Unique to Local Government and Provides an Increased Level of Service to the Public and, Therefore, Constitutes a New Program or Higher Level of Service.

Article XIIIB, section 6 requires reimbursement when "the Legislature or any state agency mandates a new program or higher level of service on any local government." New programs or higher levels of service has been defined as those "that carry out the governmental function of providing services to the public, *or* laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state."[190] Just one of these conditions need be met.[191] In this Test Claim, both are met.

The test claim statute imposes unique requirements on counties that do not apply generally to all residents and entities in the state. Providing court-appointed counsel to indigent litigants is a unique county function.[192]

---

[187] *Redd v. Guerrero* (9th Cir. 2023) 84 F.4th 874, 893, reviewing Government Code section 68662.

[188] *People v. Wells* (1996) 12 Cal.4th 979, 986.

[189] Statutes 2020, chapter 317, section 2(i) and (j).

[190] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537 citing *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56, emphasis in original.

[191] *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537; *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 557.

[192] Penal Code section 987.2.

The test claim statute also implements the state policy of erasing implicit and explicit racial discrimination in criminal prosecution. In addition to the extensive legislative findings cited in the Background, legislative history summarizes the state policy "to reckon with systemic racism and correct past injustices" and to perform "rooting-out of racism from our systems of justice."[193] It also expresses state policy "to ensure everyone is afforded an equal opportunity to pursue justice" and "equal justice under the law."[194] In short, as stated in the uncodified portion of AB 256, "[i]t is the intent of the Legislature to apply the California Racial Justice Act of 2020 retroactively, to ensure equal access to justice for all."[195]

Thus, the Commission finds that the mandated activity required by the test claim statute imposes a new program or higher level of service.

4. The Test Claim Statute Results in Costs Mandated by the State Within the Meaning of Government Code Section 17514 and the Exceptions in Government Code Section 17556 Do Not Apply.

Government Code section 17514 defines "costs mandated by the state" as any increased costs which a local agency or school district is required to incur because of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) specifically requires that no claim or payment shall be made unless the claim exceeds $1,000.

As indicated above, the new state-mandated activity requires counties to provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

The claimant has filed declarations signed under penalty of perjury identifying the following increased costs exceeding $1,000 to comply with the test claim statute:

	FY 2023-2024	FY 2024-2025
Los Angeles County Public Defender	$155,667[196]	$657,000 estimated[197]

[193] Exhibit N (3) Assembly Committee on Public Safety, March 23, 2021, AB 256, as Amended March 16, 2021, pages 6, 12.

[194] Exhibit N (3) Assembly Committee on Public Safety, March 23, 2021, AB 256, as Amended March 16, 2021, pages 6, 12.

[195] Statutes 2022, Chapter 739, section 1.

[196] Exhibit A, Test Claim, page 17, paragraph 8 (Declaration of Elizabeth Lashley-Haynes).

[197] Exhibit A, Test Claim, page 17, paragraph 9 (Declaration of Elizabeth Lashley-Haynes).

	FY 2023-2024	FY 2024-2025
		$2,190,000 estimated statewide[198]

These figures represent costs of public defenders only, which are described per the claimant as costs of the following work:

> Once the petitioner reaches out to the Public Defender and/or the court appoints the Public Defender to represent petitioners, the Public Defender must run conflict checks to ensure there is no ethical conflict in representing the petitioner.[199] Once this process is completed and no conflict is found, the Public Defender must investigate the claims made by the petitioner, retrieve and review records, communicate with the petitioner in prison, draft and file writs or motions where appropriate, make court appearances, and document files.[200]

There is no evidence rebutting these declarations.

Finance argues, however, that the test claim statute "change[s] the penalty for a crime or infraction" under Government Code section 17556(g) and therefore the Test Claim must be denied entirely. [201] The Commission disagrees.

The California Constitution declares that the Legislature need not fund mandates for "[l]egislation defining a new crime or changing an existing definition of a crime."[202] Government Code section 17556(g) provides that the "commission shall not find costs mandated by the state, as defined in Section 17514," if "[t]he statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction." County of Santa Clara and CSAC assert that the "changed the penalty" provision of section 17556(g) is unconstitutional.[203] In the Commission's role, it must presume this statute constitutional.[204]

---

[198] Exhibit A, Test Claim, page 18, paragraph 10 (Declaration of Elizabeth Lashley-Haynes).

[199] Exhibit A, Test Claim, page 10 citing Declaration of Elizabeth Lashley-Haynes.

[200] Exhibit A, Test Claim, page 18, paragraph 10 (Declaration of Elizabeth Lashley-Haynes).

[201] Exhibit B, Finance's Comments on the Test Claim.

[202] California Constitution, article XIII B, section 6(a)(2).

[203] Exhibit K, County of Santa Clara's Comments on the Test Claim; Exhibit L, California State Association of Counties' Comments on the Test Claim.

[204] California Constitution, article III, section 3.5.

The Commission finds that the test claim statute does not create a new crime or eliminate a crime, and its purpose is not to change the penalty for a crime, as required under section 17556(g) and, thus, the crime exception does not apply.

A habeas corpus proceeding is *not* a criminal action.[205] A habeas corpus proceeding collaterally attacks a prior criminal proceeding and is distinctly independent from that criminal proceeding.[206] As the U.S. Supreme Court has said, habeas corpus "is not part of the criminal proceeding itself."[207]

A habeas corpus proceeding is a civil proceeding serving civil purposes only. California case law links this principle to Penal Code section 1473.[208] And further setting it apart in practical consequence, a habeas proceeding does not give the petitioner the panoply of constitutional protections of a criminal trial, even in capital cases.[209]

---

[205] *Maas v. Superior Court* (2016) 1 Cal.5th 962, 975 ["A habeas corpus proceeding is not a criminal action."].

[206] *Maas v. Superior Court* (2016) 1 Cal.5th 962, 975.

[207] *Pennsylvania v. Finley* (1987) 481 U.S. 551, 557.

[208] *Maas v. Superior Court* (2016) 1 Cal.5th 962, 975*; In re Barnett* (2003) 31 Cal.4th 466, 474-475 citing *Pennsylvania v. Finley* (1987) 481 U.S. 551, 556-557 in context of a Penal Code section 1473 habeas corpus petition and citing *In re Scott* (2003) 29 Cal.4th 783 for same conclusion that such habeas proceedings for postconviction relief are "civil in nature"; *In re Scott* (2003) 29 Cal.4th 783, 815 ["We believe a habeas corpus proceeding like this one is civil in nature for these purposes. [Fn. Omitted.] The Legislature has labeled it a 'Special Proceeding[ ] of a Criminal Nature' (Pen.Code, pt. 2, tit. 12, ch. 1, before §§ 1473-1508), but the label is not dispositive. [citations.] It is not itself a criminal case, and it cannot result in added punishment for the petitioner. Rather, it is an independent action the defendant in the earlier criminal case institutes to challenge the results of that case. [citation.]"]; *People v. Ainsworth* (1990) 217 Cal.App.3d 247, 256 ["Defendant ignores the fundamental difference between trial and post-trial proceedings. The constitutional protections designed to ensure a fair trial do not automatically attach to proceedings involving a collateral attack on the judgment. This point was reaffirmed in *Pennsylvania v. Finley* (1987) 481 U.S. 551, . . . , which held that neither due process nor equal protection required Pennsylvania to appoint counsel for indigent prisoners seeking post-conviction relief. [citation.] Relying upon the fundamental difference between trial and post-trial proceedings, specifically those involving collateral attack, the *Finley* court held: "Postconviction relief is even further removed from the criminal trial than is discretionary direct review. It is not part of the criminal proceeding itself, and it is in fact considered to be civil in nature. …"."].

[209] *People v. Ainsworth* (1990) 217 Cal.App.3d 247, 256-258 ["*Finley* made the point that different proceedings implicate different constitutional considerations. Because the trial is the vehicle by which the state overcomes defendant's presumption of innocence and deprives him of his freedom, the trial is circumscribed by the full panoply of constitutional protections."].

The test claim statute's habeas procedures collaterally attack prior criminal proceedings where it is alleged that the state sought or obtained a criminal conviction or sentence on the basis of race, ethnicity, or national origin either intentionally or implicitly as provided in Penal Code section 745(a). That is, "a writ of habeas corpus may also be prosecuted *after* judgment has been entered based on evidence that a criminal conviction or sentence was sought, obtained, or imposed in violation of subdivision (a) of Section 745."[210] The purpose of the RJA is *not* to punish, but rather to remedy the harm to the integrity of the judicial system and to actively work to eradicate racial disparities within the criminal justice system itself:

> The intent of the Legislature is not to punish this type of bias, but rather to remedy the harm to the defendant's case and to the integrity of the judicial system. It is the intent of the Legislature to ensure that race plays no role at all in seeking or obtaining convictions or in sentencing. It is the intent of the Legislature to reject the conclusion that racial disparities within our criminal justice are inevitable, and to actively work to eradicate them.[211]

In this respect, the test claim statute is distinguishable from the test claim statute at issue in *County of San Diego v. Commission on State Mandates*, which addressed the application of the change in penalty exception in Government Code section 17556(g) to the *Youth Offender Parole Hearings* program.[212] The purpose of that program was to "establish a parole eligibility mechanism that provides a person serving a sentence for crimes that he or she committed as a juvenile the opportunity to obtain release when he or she has shown that he or she has been rehabilitated and gained maturity."[213] The legislation was enacted in response to a series of state and federal decisions collectively standing for the proposition that the cruel and unusual punishment clause of the Eighth Amendment prohibits the imposition of severe penalties on juvenile offenders, without at least some consideration to the distinctive characteristics of youth that render juvenile offenders less culpable than adult offenders.[214] The court held that the Youth Offender Parole Hearing statutes fell within this statutory exception of Government Code section 17556(g) "because they changed the penalties for crimes perpetrated by eligible youth offenders."[215]

> As a direct result of the Test Claim Statutes, most youth offenders are statutorily eligible for parole at a youth offender parole hearing conducted

---

[210] Penal Code section 1473(f) (later renumbered as section 1473(e)), emphasis added.

[211] Statutes 2020, chapter 317 (AB 2542), section 2(i).

[212] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625.

[213] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 633.

[214] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 631.

[215] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 640.

> during the 15th, 20th, or 25th year of incarceration, depending on the term of incarceration included within the youth offender's original sentence. (Pen. Code, §§ 3046, subd. (c), 3051, subds. (b), (d), 4801, subd. (c).) In practice, this parole eligibility ensures that some youth offenders will be released from prison years earlier, and perhaps even decades earlier, than they otherwise would have been but-for the Test Claim Statutes.[216]

The court explained that "by changing the manner in which the original sentences operate, and guaranteeing youth offenders the chance to obtain release on parole, the Test Claim Statutes — by operation of law — alter the penalties for the crimes perpetrated by eligible youth offenders."[217] The court further explained the "Test Claim Statutes guarantee parole eligibility for qualified youth offenders. Parole is not a mere 'procedural' or 'administrative' facet of the criminal justice system."[218]

This case is different. While a petitioner's original sentence might be vacated and it is possible for the penalty to be changed if the petition alleging racial bias under Penal Code section 745 is successful,[219] that is not the purpose of the statute as stated in the legislative findings of the RJA and any change in the penalty is thus not directly related to the enforcement of crime as required by section 17556(g). The test claim statute creates a separate civil proceeding to address allegations of discrimination. Government correcting its own behavior through a civil proceeding is not directly linked to a defendant's conduct, but to the government's conduct, and thus the test claim statute does not relate directly to the enforcement of crime as required by Government Code section 17556(g).

This conclusion is further supported by prior decisions of the Commission. In *Post-Conviction: DNA Court Proceedings,* 00-TC-21 and 01-TC-08, the Commission found a reimbursable state-mandated program in the required provision of indigent defense counsel on post-conviction motions for DNA testing under Penal Code section 1405. If DNA evidence could exonerate an inmate, an individual's previously existing penalty could, as here, change. But that potential for changed outcomes did not defeat the Test

---

[216] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 640-641.

[217] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 641.

[218] *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625, 642.

[219] For example, Penal Code section 745(e)(2)(B) provides that "After a judgment has been entered, if the court finds that only the sentence was sought, obtained, or imposed in violation of subdivision (a), the court shall vacate the sentence, find that it is legally invalid, and impose a new sentence. On resentencing, the court shall not impose a new sentence greater than that previously imposed."

Claim. As here, the postconviction DNA testing motion was "a separate *civil* action and *not part of the original criminal action*."[220]

Similarly, the Commission's Decision in *Sexually Violent Predators,* CSM-4509 considered Welfare and Institutions Code section 6601, which created a process to evaluate inmates convicted of sexual offenses to determine if they should be civilly committed after release from prison. The inmate was entitled to appointed counsel at the probable cause hearing and at the civil trial, and this provision of counsel was determined reimbursable. Although each civil commitment had a clear connection to a crime, including enforcing against recurring crime, the test claim statutes were not affected by Government Code section 17556(g) because the activity required of counties was civil, not criminal.[221]

Thus, Government Code section 17556(g) does not apply here and the other exceptions in Government Code section 17556 are not applicable to this Test Claim.

Accordingly, the Commission finds that the test claim statute results in costs mandated by the state.

V. Conclusion

Based on the foregoing analysis, the Commission approves this Test Claim and finds that Penal Code sections 745(j)(3) and 1473(f) (later renumbered as section 1473(e)), as amended by Statutes 2022, chapter 739, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, beginning July 1, 2023, requiring counties to perform the following new state-mandated activity:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

---

[220] Commission on State Mandates, Statement of Decision, *Post-Conviction: DNA Court Proceedings,* 00-TC-21 and 01-TC-08, https://www.csm.ca.gov/decisions/00tc21,01tc08sod.pdf (accessed on June 6, 2025), page 2, emphasis added.

[221] Commission on State Mandates, Statement of Decision, *Sexually Violent Predators,* CSM-4509, https://csm.ca.gov/decisions/doc96.pdf (accessed on June 6, 2025), page 9, fn. 7.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On September 29, 2025, I served the:

- **Current Mailing List dated September 29, 2025**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date issued September 29, 2025**
- **Decision adopted September 26, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 29, 2025 at Sacramento, California.

Jill Magee
_____

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/29/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

Exhibit B

September 29, 2025

Ms. Anne Kato
State Controller's Office
Local Government Programs and Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

Mr. Fernando Lemus
County of Los Angeles
500 West Temple Street, Room 603
Los Angeles, CA 90012

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date
Criminal Procedure: Discrimination, 24-TC-02
Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
County of Los Angeles, Claimant

Dear Ms. Kato and Mr. Lemus:

On September 26, 2025, the Commission on State Mandates (Commission) adopted the Decision approving the Test Claim on the above-entitled matter.

State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the reimbursement claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

Draft Expedited Parameters and Guidelines

Pursuant to California Code of Regulations, title 2, section 1183.9, Commission staff has expedited the parameters and guidelines process by preparing Draft Expedited Parameters and Guidelines to assist the claimant. The proposed reimbursable activities have been limited to those approved in the Decision by the Commission. Reasonably necessary activities to perform the mandated activities may be proposed by the parties. (Cal. Code Regs., tit. 2, §1183.7(d).) "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program (Cal. Code Regs., tit. 2, §1183.7(d).) Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of the Commission's regulations.

Review of Draft Expedited Parameters and Guidelines

Proposed modifications and comments may be filed on the Draft Expedited Parameters and Guidelines no later than **5:00 pm on October 20, 2025**. (Cal. Code Regs., tit. 2, §1183.9(b).) Please note that all representations of fact submitted to the Commission

must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, §1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[1]

Rebuttals
Written rebuttals may be filed within 15 days of service of comments. (Cal. Code Regs., tit. 2, § 1183.9(c).)

Draft Proposed Decision and Parameters and Guidelines

If there are no substantive comments filed by the comment deadline, then no Draft Proposed Decision will be prepared or issued for comment and the matter will be set for the next regularly scheduled hearing, pursuant to section 1183.9(d) of the Commission's regulations. If substantive comments are filed, Commission staff will review the Draft Expedited Parameters and Guidelines, comments, and any rebuttals and will prepare a Draft Proposed Decision and Parameters and Guidelines, which will be issued for comment.

Alternative Process: Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Test Claimant and Department of Finance Submission of Letter of Intent
Within 30 days of the Commission's adoption of a decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.11 of the Commission's regulations to develop a j*oint reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The written notification shall provide all information and filing dates as specified in Government Code section 17557.1(a).

Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs
Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.

Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs
Upon receipt of the jointly developed proposals, Commission staff shall notify all

[1] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

recipients that they shall have the opportunity to review and provide written comments concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within 15 days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs
At least 10 days prior to the next hearing, Commission staff shall review comments and rebuttals and issue a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

Alternative Process: Reasonable Reimbursement Methodology Proposed for Inclusion in Parameters and Guidelines

Government Code section 17518.5 provides a process for a reasonable reimbursement methodology to be proposed by the Department of Finance, the State Controller, an affected state agency, the claimant, or an interested party for inclusion in the parameters and guidelines of an amendment to parameters and guidelines. In this context, Government Code section 17518.5 defines "reasonable reimbursement methodology" as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514 which shall:

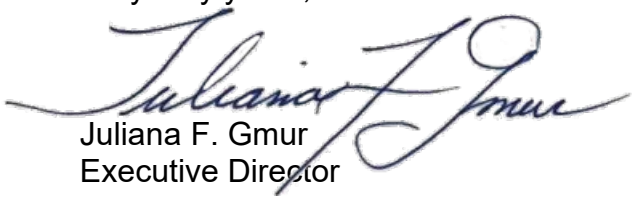
- Be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- Consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner, and
- Whenever possible, be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to https://www.csm.ca.gov/dropbox.shtml on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing: The Proposed Decision and Parameters and Guidelines for this matter are tentatively set for hearing on **Friday, December 5, 2025**, at 10:00 a.m., and will be issued on or about November 21, 2025, but may be heard on **Friday, February 13, 2026**, at 10:00 a.m., and will be issued on or about January 30, 2026, if substantive comments are filed by the comment deadline.

Very truly yours,



Juliana F. Gmur
Executive Director

Hearing Date: December 5, 2025[1]
J:\MANDATES\2024\TC\24-TC-02 Criminal Procedure Discrimination\Ps&Gs\Draft Expedited Ps&Gs.docx

DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Penal Code Sections 745 and 1473 As Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023

Criminal Procedure: Discrimination

24-TC-02

Period of reimbursement begins July 1, 2023

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address new state-mandated activities and costs resulting from Penal Code sections 745 and 1473, as amended by Statutes 2022, chapter 739, also known as the Racial Justice for All Act, effective January 1, 2023.

On September 26, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim legislation imposes a reimbursable state-mandated program upon counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

II. ELIGIBLE CLAIMANTS

Any county, or city and county subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on December 19, 2024, establishing eligibility for

[1] Tentative. If substantive comments are received on the Draft Expedited Parameters and Guidelines, a Draft Proposed Decision and Parameters and Guidelines will be prepared and issued for comment and this matter will instead be set for the February 13, 2026 hearing.

reimbursement for the 2023-2024 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2023.

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

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed $1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

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

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

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

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets

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

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

5. Travel

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

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include 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 in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using the federal de minimis indirect cost rate percentage of direct labor identified in the Office of Management and Budget Circular, at Code of Federal Regulations, title 2, section 200.414(f), excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds the de minimis rate.[2]

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). 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 2 CFR, Chapter I and Chapter II, Part 200 et al.) 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

[2] Effective October 1, 2024, the federal de minimis rate was raised from ten percent to 15 percent. (Code of Federal Regulations, title 2, § 200.414(f) (89 FR 30046, 30092.)

indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) 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 of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter[3] is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

[3] This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

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

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the 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(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On September 29, 2025, I served the:

- **Current Mailing List dated September 29, 2025**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date issued September 29, 2025**
- **Decision adopted September 26, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 29, 2025 at Sacramento, California.

Jill Magee
_____
Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/29/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

Exhibit C

Commission on State Mandates
Filed Date
October 20, 2025

October 20, 2025

Juliana F. Gmur, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

SUBJECT: Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date

Criminal Procedure: Discrimination, 24-TC-02
Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
County of Los Angeles, Claimant

Dear Juliana F. Gmur:

The State Controller's Office reviewed the Draft Expedited Parameters and Guidelines for Criminal Procedure: Discrimination and recommend no changes.

If you have any questions, please contact Lucas Leung, Local Reimbursements Section, Local Government Programs and Services Division, by email at LLeung@sco.ca.gov, or by telephone at 916-720-3009.

Sincerely,

Darryl Mar

Darryl Mar
Manager, Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

Exhibit D

Tony LoPresti
COUNTY COUNSEL

Kavita Narayan
CHIEF ASSISTANT COUNTY COUNSEL

Robert M. Coelho
Michaela L. Lewis
Steve Mitra
Elizabeth G. Pianca
Douglas M. Press
Relic Sun
Gita C. Suraj
ASSISTANT COUNTY COUNSEL

County Government Center
70 West Hedding Street
East Wing, 9th Floor
San José, California 95110-1770

(408) 299-5900
(408) 292-7240 (FAX)

Commission on State Mandates
Filed Date
October 20, 2025

October 20, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Comment on Draft Expedited Parameters and Guidelines
Criminal Procedure: Discrimination, 24-TC-02
Statutes 2022, Chapter 739, Section 5 (AB 256); Penal Code Section 745, subd. (j)(3)
County of Los Angeles, Claimant

Dear Director Gmur:

The County of Santa Clara ("County") files the following comment to the Commission on State Mandates ("Commission") in response to its Draft Expedited Parameters and Guidelines in test claim 24-TC-02 ("Test Claim"), concerning discrimination in criminal procedure.

On September 29, 2025, the Commission issued its decision ("Decision") approving the Test Claim and finding that Penal Code sections 745(j)(3) and 1473(f), as amended by the Racial Justice Act for All ("Test Claim Statute"),[1] imposed a reimbursable state-mandated program within the meaning of article XIII B, section 6 of

[1] Stats. 2022, ch. 739 (AB 256). Subdivision (f) of Penal Code section 1473 was later relettered as subdivision (e).

the California Constitution and Government Code section 17514, beginning July 1, 2023, by requiring counties to perform the following new state-mandated activity:

> Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered before January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the [Racial Justice Act] under Penal Code section 745(a), when appointed by the court.

(Decision at p. 5.)

DISCUSSION

Following the Decision, the Draft Expedited Parameters and Guidelines limit reimbursement to activities undertaken only when counsel is appointed by the court. (See Draft Expedited Parameters & Guidelines, at p. 1.) Under Government Code 17557(a), the proposed parameters and guidelines may also include "proposed reimbursable activities that are *reasonably necessary* for the performance of the state-mandated program." (Italics added.) To properly reflect all activities reasonably necessary to implement the new state-mandated activity, the County respectfully requests that the Commission revise the proposed parameters and guidelines to clarify that the costs associated with the following activities are also reimbursable: (1) the costs associated with investigating the Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel; and (2) the costs of requesting court transcripts, as well as prison records from the California Department of Corrections and Rehabilitation (CDCR).

1. **The costs associated with investigating a Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel are reasonably necessary to implement the new state-mandated activity.**

Penal Code section 1473(f) (later relettered as subdivision (e)) mandates that courts must appoint counsel if the petitioner cannot afford counsel and the petition alleges facts that would establish a Racial Justice Act violation under Penal Code section 745(a). After a court appoints a public defender or other County defense counsel agency as counsel for a petitioner under Penal Code section 987.2,[2] the

[2] In *Bemore v. Superior Court* (2025) 108 Cal.App.5th 1125, 1148, the Fourth District Court of Appeal concluded that Penal Code section 987.2 is the exclusive mechanism for the selection and assignment of counsel for indigent litigants in superior court in noncapital habeas proceedings alleging Racial Justice Act claims. Section 987.2 requires courts to appoint the primary public defender, except upon a finding of good cause if the primary public defender is unavailable. (*Id.* at pp. 1152–1153.)

diligent representation of the petitioner might involve a thorough investigation of the Racial Justice Act claim, including hiring experts and investigators, reviewing records, and interviewing potential witnesses. Under the Draft Expedited Parameters and Guidelines, such activities are reimbursable.

Habeas corpus petitions alleging Racial Justice Act claims may also be initiated by the public defender's office or other County defense agency. Although defense counsel are not responsible for investigating all possible bases for collateral attack on a judgment, they have "an ethical obligation to advise their client of the course to follow to obtain relief, *or to take other appropriate action*" if they learn of facts that would support a petition for habeas corpus. (See *In re Clark* (1993) 5 Cal.4th 750, 784 fn. 20 [italics added], abrogated by statute on other grounds as recognized by *In re Whalen* (2025) 111 Cal.App.5th 1195.) Accordingly, defense counsel who become aware of a potential Racial Justice Act claim—for example, through their prior representation of a client at trial or their knowledge of bias in local policing, prosecution, and sentencing practices—must either advise their client of the course to follow to obtain relief or take other appropriate action. Either way, they would, at a minimum, look into or screen the potential Racial Justice Act claim. As recognized in the following guidance found among the resources provided to panel appellate attorneys by the Sixth District Appellate Program:

> Whichever way you choose to go, you need to investigate the possible basis of collateral relief. It is difficult to advise the client what course s/he could take without knowing all the facts. Your investigation might show there is no issue which could result in a reversal. On the other hand, your investigation might uncover facts which are essential to advising your client what course to take or to taking other appropriate action.[3]

Moreover, merely advising their client of the course to follow may be insufficient to satisfy their ethical obligations if the client is incapable—for example, because of mental health issues or developmental disabilities—of pursuing such relief without the assistance of counsel. It could also result in delay in filing the petition, risking its denial as untimely for failure of the petitioner to seek habeas relief without substantial delay.[4] These concerns are pertinent here where the clients are incarcerated. As recognized in

---

[3] Paul Couenhoven, Investigation and Presentation of Habeas Claims in the State Appellate Court, at p.2, *available at* https://sdap.org/wp-content/uploads/downloads/research/habeas/calhcp.pdf.

[4] See *Walker v. Martin* (2011) 562 U.S. 307, 312 (holding that a prisoner must seek habeas relief in California without substantial delay as measures from the time the petitioner or counsel knew, or reasonably should have known, of the information offered in support of the claim and the legal basis for the claim), abrogated on other grounds by Penal Code section 1509(c), which set a one year filing deadline for habeas petitions in capital cases.

the following guidance found among the resources provided to panel appellate attorneys by the Sixth District Appellate Program:

> In most cases merely advising your client what course to take is to guarantee that nothing will come of the potential issue. Our clients are generally incapable of adequately preparing a habeas petition and adequately supporting them with declarations and other documents. This is particularly true of the increasing numbers of clients for whom English is not their primary language. If you advise your client how to investigate a potential habeas claim and how to present that claim by preparing a habeas petition, suspecting that your client is incapable of doing the job correctly, it's difficult to say you have fulfilled your ethical obligation.
>
> Therefore, in almost every case your ethical obligation will be to "take other appropriate action." This means that if after investigation you determine there are possible bases for collateral relief, you should prepare a habeas petition and support it with a declaration or other documents.[5]

Accordingly, to satisfy their ethical obligations, defense counsel may be required to investigate and even prepare and file a habeas petition alleging facts establishing a Racial Justice Act violation under Penal Code section 745(a) prior to appointment by the court. Notably, the obligation to investigate applies *even if ultimately defense counsel does not file a petition or the court does not appoint habeas counsel*. The investigation may include, for example, reviewing transcripts and other records, hiring experts to conduct statistical and other analyses, and deploying investigators to identify and interview potential witnesses to the biased interactions or policing practices.[6] The Draft Expedited Parameters and Guidelines should be revised to clarify that these investigative activities are reimbursable.

Moreover, this clarification would be consistent with the Legislature's stated intent in enacting the Racial Justice Act to (1) "eliminate racial bias from California's criminal justice system because racism in any form or amount, at any stage of a criminal trial, is intolerable, inimical to a fair criminal justice system, is a miscarriage of justice under Article VI of the California Constitution, and violates the laws and Constitution of

---

[5] Paul Couenhoven, Investigation and Presentation of Habeas Claims in the State Appellate Court, at p.2, *available at* https://sdap.org/wp-content/uploads/downloads/research/habeas/calhcp.pdf.

[6] See, e.g., *Bemore v. Superior Court, supra,* 108 Cal.App.5th at pp. 1141–1142, 1145 (recognizing that counsel's investigation of the petitioner's Racial Justice Act claim included "review of transcripts and case materials" and interviewing and preparing declarations for witnesses who were present when petitioner's trial counsel made racist remarks about petitioner and for counsel who admitted to making racist remarks).

the State of California" and (2) "reject the conclusion that racial disparities within our criminal justice are inevitable, and to actively work to eradicate them."[7]

Because the investigative activities that need to occur prior to, and irrespective of, appointment by the court as habeas counsel are equally reasonable and necessary to the diligent representation of a petitioner as those activities conducted after appointment, the parameters and guidelines should be revised to clarify that they are reimbursable activities.

2. The costs associated with requesting court transcripts and CDCR records are reasonably necessary to implement the new state-mandated activity.

The costs of requesting court transcripts and CDCR records are also reasonably necessary to implement the new state-mandated activity. CDCR records may include all records related to the defendant's sentencing, including but not limited to sentencing transcripts, court filings, sentencing reports filed by probation departments, and abstracts of judgment. Public defenders request court transcripts and prison records to search for evidence of Racial Justice Act claims including, for example, any biased statements made by the parties. Any costs imposed on them by the courts or CDCR to obtain these records should be reimbursed.

CONCLUSION

The County urges the Commission to revise its Draft Expedited Parameters and Guidelines to clarify that the following activities are reasonably necessary to implement the new state-mandated activity: (1) the costs associated with investigating the Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel; and (2) the costs of requesting court transcripts, as well as CDCR records.

//

//

//

//

//

[7] Stats. 2020, ch. 317, § 2(i) (AB 2542).

I certify by my signature below, under penalty of perjury, that the foregoing is true and correct to the best of my personal knowledge, information, or belief.

Very truly yours,

October 20, 2025

TONY LOPRESTI
County Counsel

Tara Fonseca

STEVE MITRA
Assistant County Counsel

ANDREW GOTTLIEB
Lead Deputy County Counsel

TARA FONSECA
Deputy County Counsel

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY

Diana Becton
DISTRICT ATTORNEY

Exhibit E

October 20, 2025

Commission on State Mandates
Filed Date
10/20/2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Comments to Draft Expedited Parameters and Guidelines
Test Claim Criminal Procedure: Discrimination, 24-TC-02

Dear Ms. Gmur,

On behalf of the Contra Costa District Attorney's Office, please accept the following proposed comments and modifications to the Commission's Draft Expedited Parameters and Guidelines. We appreciate the opportunity to provide input to ensure that the reimbursement framework accurately captures the range of activities reasonably required for compliance with the State's mandate.

As the county's prosecuting agency, our office also plays an integral role in matters involving habeas petitioners seeking relief under Penal Code section 745. While we are not the petitioners' counsel, their ability to move forward often depends on our office's capacity to retrieve, review, and produce extensive statistical data and historical case materials. In practice, the activities outlined in the test claim cannot be carried out unless the appropriate infrastructure is implemented in local prosecutors' offices.

For example, in the habeas matter of *Eugene Jones* (see attached order), Petitioner, through his public defender, filed a motion for discovery on July 30, 2024. The request included materials from historical homicide files and disposition statistics dating back to 1990. Due to the absence of data synthesis systems to efficiently access and compile this type of information, Petitioner has not received the information necessary to proceed with his habeas petition. In an order issued two weeks ago, Honorable Julia Campins wrote:

> "In light of the efforts made by the District Attorney's Office, the Court finds that the delay does not appear to be the result of the People not taking their RJA discovery obligations seriously. The Court finds that the People are

District Attorney Administration
900 Ward Street, Fourth Floor
Martinez, California 94553

(925) 957-8604
Fax (925) 646-4683

> operating in good faith to harness their available resources toward efficiently expediting compliance with the Court's orders, but have been significantly weighed down by an overwhelming volume of discovery orders and insufficient funding for additional resources."

(People v. Jones, Docket 5-00951552-9, Order for Discovery Compliance, September 24, 2025)

This same challenge affects numerous other pending cases. In each instance, the pace of progress is closely linked to the resources and infrastructure available to local prosecutors to meet discovery and data production obligations under section 745. The above order was incorporated into numerous habeas petitions that remain in the same procedural posture. Effective representation for habeas petitioners, and the timely resolution of their cases, therefore depends on two key factors: (1) the ability of prosecutors' offices to retrieve and analyze historical data, and (2) personnel to comply with the necessary discovery orders pursuant to subdivision (d) of section 745. Any reimbursable activity established by the Commission that does not include the corresponding resources to the local prosecutor's office for improved data infrastructure and staffing will fail to achieve its desired outcome. Indigent habeas petitioners will obtain representation, but their petitions will endlessly circle a runway that is yet to be built.

Therefore, in addition to the proposed reimbursable activities approved in the Decision by the Commission, we respectfully request inclusion of the following additional reimbursable activities that are directly tied to compliance with the underlying mandate and fall within the purview of "reasonably necessary activities" required to meet the mandates of AB 256:

Data Extraction and Synthesis Systems:

Penal Code section 745, subdivision (d) allows a defendant to request discovery of "all evidence relevant to a potential violation," which includes all statistical evidence and aggregate data. (Penal Code § 745, Sub, (h)(1).) To appropriately respond to these new discovery mandates, accurate and comprehensive case data must be retrieved and analyzed in a timely fashion. Currently, much of this information is stored across fragmented systems that are difficult to access and analyze. Software systems and data extraction services are necessary to collect and evaluate case-level data in a structured and timely manner. These analytical programs are essential to evaluate fairness in prosecutorial practices and to effectively respond to litigation brought under the RJA.

Accordingly, we recommend the following language addition to Section IV (Reimbursable Activities):

"Preparation activities undertaken by the District Attorney's Office, including extraction, review, and synthesis of case data and evidence necessary to comply with the statutory requirements imposed by the mandate."

Salaries and Benefits for prosecutors necessary for representation:

The corresponding personnel costs at local prosecutors' offices must be included because the representation of these habeas petitioners is directly tied to the district attorney's ability to respond in a timely and comprehensive manner. The commission aptly strives to fund this newly created mandated activity enacted pursuant to AB256. The inclusion of prosecution personnel costs is vital to ensuring petitioners' effective representation in these habeas matters. Otherwise, any order to financially support the representation indigent habeas petitioners will fail to achieve its desired outcome.

Accordingly, we recommend the following language addition to Section IV (Reimbursable Activities):

"Personnel costs borne by the District Attorney's Office, to appropriately respond to habeas petitioner's claims for discovery, which are necessary to comply with the statutory requirements imposed by the mandate."

Both data systems and prosecution personnel costs are directly linked to mandated compliance and support effective representation contemplated by this test claim. Excluding these activities would fail to capture the full scope of costs imposed by the State's mandate. We appreciate the Commission's careful consideration of the practical aspects involved in implementation. We respectfully request that the final Parameters and Guidelines be modified to include the proposed reimbursable activities described above.

Thank you for your consideration.

Respectfully submitted,

DIANA BECTON
DISTRICT ATTORNEY
CONTRA COSTA COUNTY

Ryan Wagner
Senior Deputy District Attorney
Contra Costa County

ELECTRONICALLY FILED
09/24/2025
S. LIND CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA
CONTRA COSTA COUNTY
BY: bcuevas
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

No. 5-00951552-9

Order For Request to Order the District Attorney to Show Cause and to Enforce Compliance with the Discovery Order Under the Racial Justice Act

v.s.

Defendant,

Eugene Jones,

_____/

I. Procedural Background

On February 10, 2025, the court issued a discovery order pursuant to section 745(d) of the Racial Justice Act (RJA).

On June 4, 2025, the prosecution disclosed via email a list of filed cases (Item #1, case, defendant name, and date of birth). To date, the prosecution has not disclosed Item #3 (lead police report redacted); Item #4 (green sheet, pre- and post-preliminary hearing); Item #5 (reason or policy in deciding to charge defendant); Item #7 (protocols of negotiating disposition in homicides/capital case).

On July 3, 2025, and August 14, 2025, the court held status dates on the remaining disclosure.

On September 4, 2025, the defendant filed a motion requesting that the court order the People to show cause why they have not complied with the court's discovery order. The defendant requests modification of the disclosure order in the form of compliance dates for incremental disclosure of lead police reports and

green sheets. To expedite the process, the defendant proposes that the unredacted police reports be disclosed subject to a protective order that would prohibit the public filing of the reports or their disclosure outside the Public Defender's Office. The defendant requests modification of the disclosure order in the form of compliance dates for the disclosure of police reports and green sheets, along with a minimum number to be disclosed per month.

On September 12, 2025, the People filed their response.

On September 18, 2025, the matter came before the Court at which time the Court took it under submission.

II. Discussion

The arguments raised in the present case and the reasoning in this order (*People v. Eugene Jones,* No. 5-00951552-9) shall be incorporated by reference in all other cases in which the Court issues an order for the request to order the District Attorney's Office to show cause and to enforce compliance with the discovery order under RJA. Those cases are *Jerit Aaron* No.5-00141129-7; *Paul Westmorland* No.5-00051785-4; *Kimiko Wilson* PTN24-00396; *James Hill* No.5-00930705-9; *Leron Morris* No.5-00041042-3; *Akeli Blake* PTN24-00095; *Joseph Blacknell* No.5-00110816-6; *Julian Covington* No.5-00901032-3; and *Montrell Hall* No.5-00081148-9.

A. Power to Compel Compliance with RJA Discovery Order

Section 745 does not specify a sanction for the failure of the state to comply with a discovery order. Nothing in the statute suggests that non-compliance with the order will result in the remedies under section 745(e) or the sanctions under section 1054.5(b). (Couzens, R. "Assembly Bill 2542: California Racial Justice Act of 2020, [Rev. April, 2023] at p. 22.) This, however, does not diminish a court's inherent power to enforce its lawful discovery orders through standard judicial remedies, such as compelling discovery, granting a continuance, imposing contempt, or issuing financial sanctions. (Code of Civil Procedure section 177(2) [every judicial officer has the power to "compel obedience to his [or her] lawful orders"]; Code of Civil Procedure section 128(a)(4) [every court has the power to "compel obedience to its judgments, orders, and process, ..."].)

All courts have "fundamental inherent equity, supervisory, and administrative powers, as well as inherent power to control litigation before them. (*Rutherford v. Owens-Illinois, Inc*. (1997) 16 Cal.4th 953, 967.) The trial court also has broad discretion to fashion a remedy in the event of discovery. (*People v. Jenkins* (2000) 22 Cal.4th 900, 951; *People v. Lamb* (2006) 136 Cal.App.4th 575, 581.) Misuses of the discovery process include, among other things, "[f]ailing to

respond or to submit to an authorized method of discovery," "[m]aking an evasive response to discovery," and "[d]isobeying a court order to provide discovery." (Code of Civil Procedure sections 2023.010 (d), (f), & (g).)

All courts have "fundamental inherent equity, supervisory, and administrative powers, as well as inherent power to control litigation before them. (Rutherford v. Owens-Illinois, Inc. (1997) 16 Cal.4th 953, 967.) The trial court also has broad discretion to fashion a remedy in the event of discovery. (*People v. Jenkins* (2000) 22 Cal.4th 900, 951; *People v. Lamb* (2006) 136 Cal.App.4th 575, 581.) Misuses of the discovery process include, among other things, "[f]ailing to respond or to submit to an authorized method of discovery," "[m]aking an evasive response to discovery," and "[d]isobeying a court order to provide discovery." (Code of Civil Procedure sections 2023.010 (d), (f), & (g).)

The burden of proving a "substantial justification" for failing to comply with a discovery order is on the party that has disobeyed the order. (*Doe v. United States Swimming, Inc.* (2011) 200 Cal. App. 4th 1424, 1436, citing Code of Civil Procedure section 2023.010(a).) Before sanctions are imposed, the court must therefore determine if the party subject to the sanction acted with substantial justification or if other circumstances make the imposition of the sanction unjust. (Code of Civil Procedure section 2023.010(a); Code of Civil Procedure section 2023.030 [authorizes a trial court to impose monetary sanctions, issue sanctions, evidence sanctions, or terminate sanctions against "anyone engaging in conduct that is a misuse of the discovery process" including "[d]isobeying a court order to provide discovery"]; Code of Civil Procedure section 177.5 [judicial officer shall have the power to impose reasonable money sanctions, not to exceed fifteen hundred dollars ($1,500), payable to the court, for any violation of a lawful court order by a person, done without good cause or substantial justification].)

The trial court must, however, take an incremental approach to discovery sanctions. "'If a lesser sanction fails to curb misuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will curb the abuse. (*Creed-21 v. City of Wildomar* (2017) 18 Cal.App.5th 690, 702; *Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 991 (*Doppes*).)

B. Enforcing Compliance with the Discovery Order

In considering an appropriate remedy for the delayed production of discovery, the Court has considered the reason for the delay, whether the delay prejudices the defendant, and the feasibility of curing the prejudice with a continuance and/or modification of the discovery order.

Reasons for the Delay

The Court's discovery order was issued on February 10, 2025. To date, there has been a delay of 7 months, 8 days in compliance with the Court's discovery order. The People stand by the estimate that it would take "anywhere from 3-5 years to complete the process of locating and redacting these [lead police reports and green sheets]" for Items #2 and #3.

First, the People assert that there are limited resources available to process the RJA motions. There are currently two full-time Deputy District Attorneys who handle all the RJA matters, including the ones before this court (post-conviction matters either pending a habeas petition or with a pending habeas petition) and those involving open cases. To date, a part-time case prep assistant (CPA), who also had other duties, has been processing the locating and redaction of the lead police reports. Overtime was paid to the CPA to ensure compliance with the discovery orders. On or about September 29, 2025, a full-time (temporary) CPA will be hired to handle all these duties. There is one filing clerk who also assists, but who has other responsibilities.

Second, the People cite numerous outstanding post-conviction and open case RJA discovery orders that need to be complied with. The District Attorney's Office, at this time and with some deviation based on particularly circumstances, processes RJA discovery orders in post-sentencing cases on a sequential, not a concurrent, basis. The steps involved in the disclosure entail many hours of locating and reviewing files. The task requires the redaction of a significant quantity of reports covering a twenty- to forty-year timeframe.

The components involved in disclosing the lead police report and Green Sheet begin with creating the lists of cases, which are disclosed to the defense first. There are an estimated total of 1350 homicide cases (1100 homicides between 1985 - 2009 and 250 cases between 2010-2015). There are 1,244 non-homicide cases.[1] Of the homicide cases, approximately 675 are non-digital (in a box).

For the CPA to process the lead police report, he or she must locate the file. It takes on average 24 hours to obtain the file from storage. The CPA then compiles the case file. Reports are located in the file or are ordered from agencies. It takes 15 minutes to locate and format a digitally available police report. It takes 2 hours to locate the lead police report in non-digital files. The reports are scanned and digitized if they are not in the system.

[1] *Jerit Aaron* No.5-00141129-7 includes 465 cases and *Akeli Blake* PTN24-00095 includes 779.

The CPA then redacts the lead police report. A homicide lead report can be anywhere from 30 to 300 pages. It takes 2 minutes per page to redact a typed report and 4 minutes per page to redact a handwritten report. Next, an attorney has to review the redactions to ensure accuracy.

The People's outstanding post-conviction discovery orders include all homicide reports from 1985–2015 and 10 years of sexual assault and human trafficking cases. Compliance is expected to require 6,788 case prep assistant hours and at least 621 attorney review hours. They have prioritized the redaction for the open homicide cases and are now commencing on pulling the files, scanning, and locating the police reports and redaction for the post-conviction matters.

The People assert that they are currently taking steps to use technology to assist with the redactions. To date, attempts have been made to use software to deal with the redactions, but errors occur regularly. On or about November 3, 2025, the People hope to secure software that is AI-based that will expedite the redaction process.

The People have also attempted to secure software that permit the office to collect data from the Court's computer system. The District Attorney asked the Contra Costa County Board of Supervisors if the remaining unused portion of the District Attorney's budget could go towards funding this software. The request was denied. The People are now applying for a grant to secure alternative funding.

As for locating the green sheet, the People assert that a complete hand search of every homicide box from 1990 to 2000 is required to determine if there is a green sheet. This task takes a minimum of one and a half hours of attorney time per case, or as much as two to three hours to search the boxes.

Finally, the People's request for additional funding has been repeatedly denied by the Contra Costa County Board of Supervisors. The People indicated that the budget provisions in 2023 to address the Antioch Police Department scandal do not mean that there is adequate funding for RJA discovery related to murders from 2005 to 2015. The People asked for ten attorneys, and were given five, two of whom handle only RJA matters while another two process the felony murder resentencing petitions. They requested a full-time CPA, and the request was denied. They had to secure a grant to hire a temporary CPA. When asked about what additional steps have been taken to obtain funding, the People stated that they have not made any new requests for funding. They already have ten vacant attorney positions in their office, and any request for additional staffing has been denied to date.

The People assert that they are currently taking steps to contract with companies to collect, organize, and disclose data, as well as to use technology to assist with the redactions. Efforts to locate a contract company to assist in the processing of RJA discovery orders have been unsuccessful to date, but efforts are ongoing.

In light of the efforts made by the District Attorney's Office, the Court finds that the delay does not appear to be the result of the People not taking their RJA discovery obligations seriously. The Court finds that the People are operating in good faith to harness their available resources toward efficiently expediting compliance with the Court's orders, but have been significantly weighed down by an overwhelming volume of discovery orders and insufficient funding for additional resources.

Prejudice Caused by the Delay

The delay has deprived the defendant of the ability to review the police reports, green sheets, and data that might demonstrate racial animus or disparity in treatment towards him because of his race. The delay in the discovery threatens the defendant's ability to conduct a meaningful investigation into a claim under the RJA in a timely fashion. In turn, the delay undermines his ability to challenge the viability of his conviction. He has been subject to the deprivation of his liberty without the opportunity to challenge his conviction under the RJA.

The defense has demonstrated a reasonable and accommodating posture by recognizing that compliance with the Court's mandate imposes logistical challenges upon the prosecution that cannot be overcome instantly. The defendant recognizes that, even assuming the People devoted 30 hours per month in a given case to redaction (totaling 900 pages of reports, or about 20 police reports), it would still take two years in many cases to disclose the police reports at issue.

The Court has also heeded the warning by the defendant that, to date, this is just a trickle in terms of the number of RJA matters that will be litigated in the future. The defendant cited that there are 1469 defendants in custody, and 179 of them are persons of color who are incarcerated from Contra Costa County. There is no doubt that the number of pending RJA orders and claims will continue to increase exponentially over the coming months and years. Though there are currently only two Deputy District Attorneys assigned to handle RJA matters, the strain on prosecutorial resources was indeed part of the legislature's choice in setting the discovery standard low under Pen. Code section 745(d). (See *Young v. Superior Court of Solano County* (2022) 79 Cal. App. 5th 138, 163 [discussing legislative intent for the discovery standard under the RJA].)

Remedy

The defense is not seeking monetary sanctions. It would be premature at this juncture to do so and should serve only as a means of last resort to secure compliance. Rather, the defendant is requesting that the Court set compliance dates to require disclosure of fifty police reports and green sheets per month. This would be achieved by eliminating the redaction requirement and issuing a protective order permitting all unredacted police reports to be disclosed to the defendant.

The People objected to the disclosure of unredacted police reports based on protecting the privacy rights of the victims. The protective order would have to apply to use in related cases, as well as to experts. CLETS information would have to be redacted to maintain compliance with the terms of operation permitting access to CLETS data. The defendant would have to ask the Court for leave to use any information in the unredacted report. Moreover, the disclosure of green sheets is limited by the number of attorney hours required to review the files.

The court finds that setting compliance dates for the release of targeted numbers of police reports and green sheets is a reasonable request. However, the Court cannot dictate to the District Attorney's Office how to manage their budget or who they should hire. Rather, the Court can have deeper involvement by monitoring and ensuring that the People make consistent progress toward meeting their graduated discovery targets. Although the People have provided sufficient explanation for the reasons for the delay to date, they need to continue to report to the Court the steps they are taking to make progress.

Before the court orders the modification of the discovery order, the Court finds that a continuance is appropriate to allow the People the opportunity to demonstrate if the steps they are taking can alleviate the delay; namely, whether their capacity to expedite the disclosure of the redacted police reports and green sheets will be improved with the onboarding of the temporary CPA in September and the use of AI software to assist in the redaction in November, while the People systematically provide rolling disclosures starting with the comparative group of White defendants from the list.

Should the People make no significant progress in terms of releasing redacted reports and green sheets by January 2026, then the Court may revisit the terms of the discovery order and consider an appropriate alternative to compel the People's future compliance with the court's order.

III. Disposition

To date, in the past 7 months, 8 days since the Court ordered discovery, the People have complied with the Court's discovery order as follows, and the parties are to return on the dates specified:

Item #1: Discovery was ordered for a list of all homicide cases from January 1, 1990, and January 1, 2000. The People have turned over a list of every homicide from 1985-2009. Defendant is already in possession of a list of every homicide from 2010-2024 based on a Public Records Request. These lists are incomplete because the system's data collection is very unreliable. The parties must work together to resolve this.

Item #3 (lead police reports) – To date, no police reports have been disclosed. The People have located the boxes from storage and have searched them. They have indicated that there are 404 cases related to the relevant time frame. Some of the reports from January 1, 1990, to January 1, 2000, are likely to be handwritten. Redacting a 50-page handwritten report would take 1350 hours. The matter is calendared for October 16, 2025, for further confirmation as to the expected date of the initial disclosure of police reports, with prioritization related to cases involving the comparative group White defendants from the list.

Item #4 (green sheet) – To date, no green sheets have been disclosed. The People have indicated that there are 404 cases from January 1, 1990, to January 1, 2000. It would require 600 hours of attorney time (at 1.5 hours per case) to locate and review the green sheets.

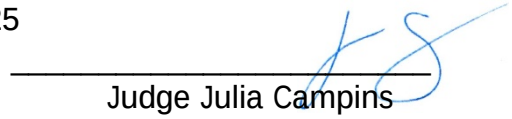
The People have confirmed that they have found green sheets in their search of the boxes, and the matter is calendared for October 2, 2025, to address work-product and objections to the disclosure of the entirety of the documents.

Item #5 (reason or policy in making decision to charge defendant) – The disclosure of this item was not addressed at the hearing.

Item #7 (protocols of negotiating disposition in homicides/capital case) - The disclosure of this item was not addressed at the hearing.

It is so ordered.

Dated: September 24, 2025



Judge Julia Campins
Judge of the Superior Court

Cc:

Deputy Public Defender,
Rebecca Brackman;

Deputy District Attorney,
Eric Dickson, Amber White

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

COUNTY OF SONOMA
OFFICE OF THE DISTRICT ATTORNEY

Hall of Justice • 600 Administration Drive, Room 212-J • Santa Rosa, CA 95403
PHONE 707.565.2311 • FAX 707.565.2762 • da.sonomacounty.ca.gov

CARLA RODRIGUEZ
District Attorney

Exhibit F

October 20, 2025

Commission on State Mandates
Filed Date
October 20, 2025

Ms. Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Ste 300
Sacramento, CA 95814

Comments to Draft Expedited Parameters and Guidelines
Test Claim Criminal Procedure: Discrimination, 24-TC-02

Dear Ms. Gmur,

On behalf of the Sonoma County District Attorney's Office, please accept the following proposed comments and modifications to the Commission's Draft Expedited Parameters and Guidelines. We appreciate the opportunity to provide input to ensure that the reimbursement framework accurately captures the range of activities reasonably required for compliance with the State's mandate.

Given the breadth and scope of AB 256, we respectfully request the approval of additional reimbursable activities that are directly tied to compliance with the underlying mandate and fall within the purview of "reasonably necessary activities" as outlined below.

Discovery Obligations, Data Collection and Data Synthesis Systems:

The Sonoma County District Attorney's Office (SCDAO) is Sonoma County's prosecuting agency. The office plays an integral role in matters involving habeas petitioners seeking relief under Penal Code section 745. The habeas petitioners cannot move forward in their cases unless the District Attorney's Office is able to retrieve, review, and produce extensive statistical data and historical case materials. In practice, the activities outlined in the test claim cannot be carried out unless the appropriate infrastructure is implemented in local prosecutor's offices.

In other words, the pace of progress is closely linked to the resources and infrastructure available to local prosecutors to meet discovery and data production obligations under section 745. While the SCDAO would like to have a complete electronic database with case information going back decades, this has not yet happened. The amount of work needed to locate, review, and download relevant information needed to provide aggregate data is monumental given that the data has not been collected in a single location.

Effective representation for habeas petitioners, and the timely resolution of their cases, therefore, depends on two key factors: (1) the ability of prosecutors' offices to retrieve and analyze historical data, and (2) personnel to comply with the necessary discovery orders pursuant to subdivision (d) of section 745. Any reimbursable activity established by the Commission that does not include the corresponding resources to the local prosecutor's office for improved data infrastructure and staffing will fail to

achieve its desired outcome. Indigent habeas petitioners will obtain representation, but their petitions will endlessly circle the runway that is yet to be built.

Accordingly, we recommend the following language addition to Section IV (Reimbursable Activities):

"Preparation activities undertaken by the District Attorney's Office, including extraction, review, and synthesis of case data and evidence necessary to comply with the statutory requirements imposed by the mandate."

Salaries and Benefits for prosecutors necessary for representation:

The SCDAO receives no grant money or other compensation to handle litigation pursuant to AB 256. Only senior attorneys with the requisite research and litigation experience can handle these cases.

In addition, the representation of these habeas petitioners is directly tied to the district attorney's ability to respond in a timely and comprehensive manner. The commission aptly strives to fund this newly created mandated activity enacted pursuant to AB256. The inclusion of prosecution personnel costs is vital to ensuring petitioners' effective representation in these habeas matters. Otherwise, any order to financially support the representation indigent habeas petitioners will fail to achieve its desired outcome.

Accordingly, we recommend the following language addition to Section IV (Reimbursable Activities):

"Personnel costs borne by the District Attorney's Office, to appropriately respond to habeas petitioner's claims for discovery, which are necessary to comply with the statutory requirements imposed by the mandate."

Both data systems and prosecution personnel costs are directly linked to mandated compliance and support effective representation contemplated by this test claim. Excluding these activities would fail to capture the full scope of costs imposed by the State's directive. We appreciate the Commission's careful attention to the realities of county implementation. We respectfully request that the final Parameters and Guidelines be modified to include the proposed reimbursable activities described above.

Respectfully Submitted,

Carla Rodriguez

Carla Rodriguez
Sonoma County District Attorney

DECLARATION OF ANDREA E. TAVENIER

I, Andrea E. Tavenier, declare as follows:

1) I am an attorney-at-law licensed to practice in all courts of the State of California and am employed as a Chief Deputy District Attorney at the Sonoma County District Attorney's Office. My current assignment includes supervision of the Writs, Appeals, Law, and Research Division. A large part of those duties include supervision and coordination of Racial Justice Act (RJA) writs and motions.

2) Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code (PC) § 745 to add sub § (j)(3), which allows any petitioner currently serving a sentence in State prison or in county jail pursuant to PC § 1170(h), or committed to the Division of Juvenile Justice, regardless of when the judgment or disposition became final, to file a motion or habeas corpus writ petition alleging a racially biased prosecution under PC § 1473(e).

3) As a result of AB 256, the Sonoma County District Attorney's Office has incurred additional legal obligations and associated costs relative to these retroactive claims.

4) Those AB 256 obligations are as follows:

   a. Discovery:

      AB 256 obligates the District Attorney's Office to provide historical discovery related to an alleged violation of the RJA after a prima facie violation of the Act has been found, and upon a showing of good cause.

      The discovery sought and/or ordered may include decades of case-specific data on cases unrelated to the petitioner's, but sharing either "offense type" or "charge." The data sought often includes basic information, like charge, enhancement, special circumstance, or special allegation information, and also case specific facts, like race/ethnicity/age of defendant, race/ethnicity of victim, case number and name, disposition and sentencing information, criminal history, police reports/factual narratives of each case, file or no file considerations.

      Cases that fall within this (j)(3) category often involve serious/violent crimes (like special circumstance murder) and carry lengthy prison sentences. The comparison cases therefore also involve serious/violent crimes with lengthy prison sentences. Because the data sought is *historical*, the petitioner's case and the comparison cases are often voluminous and not digitized – instead, existing in (sometimes dozens) of banker's boxes in a storage facility. When discovery is ordered, sometimes for decades worth of archived, paper case files, District Attorney's Office personnel must locate, organize, and review the contents of each box, often deciphering handwritten notes to find the targeted information. Office personnel then must digitize and redact privileged and confidential information from the discovery before disclosure to the defense.

      Historical data managed in various case management systems often must be manually collected and manually checked for accuracy – and even then, the data housed in historical systems does not include the level of case specific detail requested by the defense, ordered by the court, or required to engage in a meaningful RJA analysis.

   b. Review of the record and case file:

      AB 256 obligates the District Attorney's Office to engage in extensive work even for non-data based post-judgment claims.

Often, if not always, evaluation of these non-data based claims will require not only review of the District Attorney's case file – it requires a review of the record on appeal – which is often comprised of tens of thousands of pages of reporter's transcripts and pleadings filed throughout the life of the case, both pre-conviction and post-judgment including writs and appeals filed in the Superior Court, Court of Appeal, and Supreme Court.

c. Expert consultation and analysis:

Statisticians, data analysts, and implicit bias experts may be necessary to consult and retain in these RJA matters to review the data or the facts of the case to aid in determining whether an RJA violation occurred.

d. Preparation of briefs and legal argument – review of data and expert conclusions:

RJA litigation is generally comprised of several phases: discovery, prima facie, and evidentiary hearing. Each phase often requires significant legal research and writing over many months. In the post-judgment context, briefing often entails authoring a statement of the facts and procedural history of the case taken from a lengthy record on appeal.

To appropriately brief the matter at the prima facie stage, a detailed review of foundational data on a several hundred page excel spreadsheet to assess accuracy and an understanding of the methodology utilized by an expert to assess reliability is required. A response to a writ of habeas corpus requires even more briefing where a court may order an informal response even before the return and traverse. At each stage, extensive research and legal writing are required.

e. Court appearances and hearings: RJA litigation requires regular court appearances and hearings on substantive issues. Evidentiary hearings can take months and involve the testimony of witnesses including Public Defender and District Attorney experts.

5) The Sonoma County District Attorney's Office has not received any local, State, or federal funding specific to the implementation of AB 256, and has not received any grant funding to offset the substantial costs associated with that legislation.

6) The District Attorney is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter.

I have personal knowledge of the foregoing facts and information presented in these Comments to Draft Expedited Parameters and Guidelines, and, if so required, I could and would testify to the statements made herein.

Executed October 20, 2025 in Santa Rosa, California.

Andrea Tavenier
Chief Deputy District Attorney
Sonoma County District Attorney's Office

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

CITY AND COUNTY OF SAN FRANCISCO

BROOKE JENKINS
District Attorney

OFFICE OF THE DISTRICT ATTORNEY

ALLISON GARBUTT MACBETH
Division Chief
Special Litigation & Post Conviction
DIRECT DIAL: (628) 652-4161
E-MAIL: Allison.macbeth@sfgov.org

Exhibit G

Commission on State Mandates
Filed Date
10/20/2025

October 20, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Comments to Draft Expedited Parameters and Guidelines
Test Claim Criminal Procedure: Discrimination, 24-TC-02

Dear Ms. Gmur,

Please accept the San Francisco District Attorney's (SFDA) Office comments and recommended changes to the Commission's Draft Proposed Decision and Parameters and Guidelines for Test Claim Criminal Procedure: Discrimination, 24-TC-02. The Draft Proposed Parameters and Guidelines address new state-mandated activities and costs incurred as a result from the amendments to Penal Code sections 745 and 1473 under Assembly Bill (AB) 256, known as the Racial Justice Act for All.

The Racial Justice Act (RJA), originally enacted in 2020 under AB 2542, seeks to combat implicit bias based on race, ethnicity, or national origin in the criminal justice system. Originally, the RJA only applied to cases where judgment was entered on or after January 1, 2021. But the Legislature amended section 745 through AB 256 to provide a tiered, retroactive application to all cases where judgment was entered before January 1, 2021. Under AB 256, the RJA applies retroactively on an annual basis to the following groups of cases: a petitioner who is sentenced to death or challenges actual or potential immigration consequences (2023); a petitioner who is currently serving a state prison or county jail sentence or has been committed to the Division of Juvenile Justice (DJJ) (2024); cases where the judgment for a felony conviction or juvenile disposition with a DJJ commitment became final on or after January 1, 2015 (2025); any and all judgements for a felony conviction or juvenile disposition with a DJJ commitment, regardless of when the judgment became final (2026).

Generally, the RJA sets out a three-step process to litigate claims:

1. Discovery: If desired, a defendant who plausibly alleges facts demonstrating an RJA claim may seek a court order requiring the prosecution to disclose information concerning the alleged RJA violation(s). (Pen. Code, § 745, subd. (d).)

2. Prima Facie Case: Regardless of whether a defendant seeks RJA discovery or not, a defendant seeking RJA relief must file a motion establishing a prima facie case that the RJA has been violated. (Pen. Code, § 745, subds. (b), (c).)

3. Evidentiary Hearing: If the trial court concludes that a prima facie showing has been made, an evidentiary hearing occurs where a defendant must prove by a preponderance of the evidence that they are entitled to relief. (Pen. Code, § 745, subd. (c)(1)-(3).)

The Test Claim here focuses on the second tier: cases where the petitioner is currently serving a state prison or county jail sentence or has been committed to the DJJ, as noted in section 745, subdivision (j)(3). SFDA agrees that before the enactment of section 745, subdivision (j)(3), individuals serving state prison sentences were not eligible to file writ petitions to challenge a racially biased prosecution, as stated in the supporting Declaration of Los Angeles Deputy Public Defender Elizabeth Lashley-Haynes. SFDA also agrees that following the appointment of counsel, an attorney with the Public Defender must consult with clients, run conflicts checks, investigate claims, retrieve and review records, draft and file writs or motions where appropriate, make court appearances, and document files, among other activities, as noted in Deputy Public Defender Lashley-Haynes's declaration.

With a subsequent amendment to sections 745 and 1473, the pre-hearing work (investigate claims, retrieve and review records, and draft and file writs and motions where appropriate) will only increase, particularly for those cases that are the focus of the Test Claim. On October 13, 2025, Governor Newsom signed AB 1071, which amends subdivision (d) of section 745 to allow a defendant or petitioner to file a motion for discovery of all evidence relevant to a potential violation of subdivision (a) of section 745. Thus, with the concurrent amendment to section 1473, this discovery motion provision will now also apply to indigent habeas corpus petitioners.

And the state-mandated obligations under the RJA after AB 256 are not limited to Public Defenders. They apply equally to District Attorneys; and with discovery, District Attorneys have additional obligations. The following is a list of reasonably necessary activities of the District Attorney to comply with statutes found to impose a state-mandated program for retroactive claims under the RJA, as outlined in the Test Claim. (Cal. Code Regs., tit. 2, § 1183.7, subd. (d).)

Case Review

According to the California Department of Corrections and Rehabilitation (CDCR) in-custody population demographics, there are about 456 people currently incarcerated in CDCR from San Francisco County (as of September 2025). Of those, about 92.1% of those people are incarcerated for a crime against a person.

Most cases that involve a state prison commitment (like the group involved in the Test Claim) are complex. For these complex cases, the files often consist of box(es) of materials, which may include police reports, photographs, audio recordings, video recordings, transcripts, and forensic reports. If the matter proceeded to trial, the court's docket and the transcript of proceedings would also be voluminous. Addressing an RJA claim in a case that resulted in a state prison commitment would therefore be likely to require considerable time to review the case file.

Discovery under the RJA

As noted, the RJA does not require a defendant to seek discovery from the prosecution to make a case that the RJA has been violated. But most do. And, as noted above, AB 1071 will extend those discovery obligations to any person who is currently incarcerated and who seeks to proceed by way of a petition for habeas corpus. The showing necessary to trigger a discovery obligation on the prosecution is low. The defense need only to establish "good cause" to begin receiving materials. Oftentimes, any provision of discovery is prefaced by lengthy motion work and court hearings to determine the nature and scope of discovery that the defense is entitled to receive.

Discovery under the RJA is often broader than traditional criminal discovery, and, in San Francisco, is a burden imposed almost entirely on the prosecution. Such discovery often requires prosecuting agencies to look beyond the moving defendant's case to investigate, compile, and produce a list of all defendants who have engaged in similar conduct, and who are similarly situated. For a lengthy state prison commitment that was imposed long ago, this review requires a physical review of paper—not electronic—case files, often consisting of boxes of materials which must be reviewed and redacted to protect personal identifying information from being disclosed.

Discovery production may also require the prosecution to retrieve numerous materials including accusatory pleadings, incident reports, emails, text messages, and training records—all of which must also be reviewed and redacted to protect privacy interests. While the bulk of RJA discovery litigation so far has focused on pending cases in San Francisco, an example involving a sexual assault case is informative as to what are reasonably necessary costs to comply with the obligations imposed under AB 256. There, the discovery phase in a sexual assault case required the prosecution to review about 181 other cases identified as similarly situated. For those 181 cases, discovery production included the following tasks: retrieving and redacting police reports; embedding de-identifiers; retrieving Records of Arrests and Prosecutions (RAP) sheets; BATES stamping materials; and disclosure. The discovery phase required over 130 hours of paralegal staff time to obtain police reports and redact them. Discovery of information from RAP sheets also required attorney review to answer the binary question of whether each defendant had prior convictions. And in other RJA discovery cases, an attorney reviewed emails and text messages to identify responsive records and any applicable privileges.

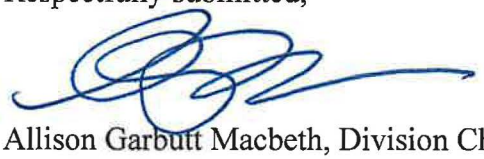
Evidentiary Hearings

In habeas litigation, the court must review any petition alleging an RJA claim and determine whether the petitioner has made a prima facie showing. Under AB 1071, the court may also request an informal response from the prosecution. At an evidentiary hearing, the petitioner has the burden of proving the RJA claim by a preponderance of the evidence. The RJA evidentiary hearings in San Francisco have involved pending and post-conviction cases, both of which are instructive here.

Expert witnesses are often retained and charge (on average) between $300 to $500 per hour. There can also be additional litigation over pre-hearing discovery concerning these experts. And should an expert testify, the RJA's focus on statistical analysis now requires attorneys to prepare by reviewing numerous studies which are not only lengthy, but dense. The hearings themselves are also lengthy and can occur over several court days. And most, if not all, evidentiary hearings involve extensive post-hearing briefing and additional expenses for hearing transcripts.

Based on the foregoing, the state-mandates imposed by AB 256 extend beyond the obligations for counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered before January 1, 2021, and are currently serving a state prison or county jail sentence or committed to the DJJ. Instead, they apply equally to the District Attorney (if not more in the case of discovery). Therefore, it is respectfully suggested that the Draft Expedited Parameters and Guidelines be amended to include as "reasonably necessary activities," those obligations imposed on the District Attorney, including: case review; discovery (including motion work, court hearings, processing, and production); and evidentiary hearings (including pre-hearing discovery, expert witnesses, briefing, and transcripts).

Respectfully submitted,



Allison Garbutt Macbeth, Division Chief
Special Litigation and Post Conviction Division
San Francisco District Attorney's Office

Cc: Greg Wagner, Controller
City and County of San Francisco

Sophia Kittler, Budget Director
San Francisco Mayor Daniel Lurie

DECLARATION OF ALLISON GARBUTT MACBETH

I, Allison Garbutt Macbeth, declare as follows:

1. I am an attorney at law licensed to practice in all courts in the State of California and am employed as the Division Chief of the Special Litigation and Post Conviction Division at the San Francisco District Attorney's Office. As Division Chief, I supervise the Writs & Appeals Unit, the Trial Integrity and Post Conviction Review Units, and the Supervision and Rehabilitation Unit. These duties include litigation and/or supervision for several different aspects of the Racial Justice Act (RJA): discovery, legal briefing, and evidentiary hearings.

2. Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code section 745 to apply the RJA retroactively in phases to all cases where judgment was entered on or after January 1, 2021. Under AB 256, subdivision (j)(3) of section 745 states that the provision applies as follows: "Commencing January 1, 2024, to all cases in which, at the time of the filing of a petition pursuant to subdivision (e) of Section 1473 raising a claim under this section, the petitioner is currently serving a sentence in the state prison or in a county jail pursuant to subdivision (h) of Section 1170, or committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgment or disposition became final."

3. As a result, the San Francisco District Attorney incurs additional legal obligations relative to these retroactive claims.

4. I am informed and believe that those obligations are as follows:

   a. Case Review: According to the California Department of Corrections and Rehabilitation (CDCR) in-custody population demographics, there are about 456 people currently incarcerated in CDCR from San Francisco County (as of September 2025). Of those, about 92.1% of those people are incarcerated for a crime against a person. Most cases that involve a state prison commitment (like the group involved in the Test Case) are complex. For these complex cases, the files often consist of box(es) of materials, which may include police reports, photographs, audio recordings, video recordings, transcripts, and forensic reports. If the matter proceeded to trial, the court's docket and the transcript of proceedings would also be voluminous. Addressing an RJA claim in a case that resulted in a state prison commitment would therefore be likely to require considerable time to review the case file.

   b. Discovery under the RJA: As noted, the RJA does not require a defendant to seek discovery from the prosecution to make a case that the RJA has been violated. But most do. And, as noted above, AB 1071 will extend those discovery obligations to any person who is currently incarcerated and who seeks to proceed by way of a petition for habeas corpus. The showing necessary to trigger a discovery obligation on the prosecution is low. The defense need only to establish "good cause" to begin receiving materials. Oftentimes, any provision of discovery is prefaced by lengthy

motion work and court hearings to determine the nature and scope of discovery that the defense is entitled to receive. Discovery under the RJA is often broader than traditional criminal discovery, and, in San Francisco, is a burden imposed almost entirely on the prosecution. Such discovery often requires prosecuting agencies to look beyond the moving defendant's case to investigate, compile, and produce a list of all defendants who have engaged in similar conduct, and who are similarly situated. For a lengthy state prison commitment that was imposed long ago, this review requires a physical review of paper—not electronic—case files, often consisting of boxes of materials which must be reviewed and redacted to protect personal identifying information from being disclosed. Discovery production may also require the prosecution to retrieve numerous materials including accusatory pleadings, incident reports, emails, text messages, and training records—all of which must also be reviewed and redacted to protect privacy interests. While the bulk of RJA discovery litigation so far has focused on pending cases in San Francisco, an example involving a sexual assault case is informative as to what are reasonably necessary costs to comply with the obligations imposed under AB 256. There, the discovery phase in a sexual assault case required the prosecution to review about 181 other cases identified as similarly situated. For those 181 cases, discovery production included the following tasks: retrieving and redacting police reports; embedding de-identifiers; retrieving Records of Arrests and Prosecutions (RAP) sheets; BATES stamping materials; and disclosure. The discovery phase required over 130 hours of paralegal staff to obtain police reports and redact them. Discovery of information from RAP sheets also required attorney review to answer the binary question of whether each defendant had prior convictions. And in other RJA discovery cases, an attorney reviewed emails and text messages to identify responsive records and any applicable privileges.

c. Evidentiary Hearings: In habeas litigation, the court must review any petition alleging an RJA claim and determine whether the petitioner has made a prima facie showing. Under AB 1071, the court may also request an informal response from the prosecution. At an evidentiary hearing, the petitioner has the burden of proving the RJA claim by a preponderance of the evidence. The RJA evidentiary hearings in San Francisco have involved pending and post-conviction cases, both of which are instructive here. Expert witnesses are often retained and charge (on average) between $300 to $500 per hour. There can also be additional litigation over pre-hearing discovery concerning these experts. And should an expert testify, the RJA's focus on statistical analysis now requires attorneys to prepare by reviewing numerous studies which are not only lengthy, but dense. The hearings themselves are also lengthy and can occur over several court days. And most, if not all, evidentiary hearings involve extensive post-hearing briefing and additional expenses for hearing transcripts.

5. The San Francisco District Attorney has not received any local, State, or federal funding and does not have a fee authority to offset its increased direct or indirect costs associated with our work related to AB 256.

6. The San Francisco District Attorney is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, based upon my personal knowledge, except to those items stated on information and belief and as to those items, I believe them to be true.

Executed at San Francisco, California on October 20, 2025.

Allison Garbutt Macbeth

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

COUNTY OF MARIN

OFFICE OF THE
COUNTY COUNSEL

Brian E. Washington
COUNTY COUNSEL

Renee Giacomini Brewer
ASSISTANT COUNTY COUNSEL

Jenna J. Brady
Brandon W. Halter
CHIEF DEPUTY COUNTY COUNSELS

Stephen R. Raab
Kerry L. Gerchow
Deidre K. Smith
Sarah B. Anker
Kate K. Stanford
Carolyn Ortler Tsai
Jacy Dardine
Valerie Berg
Jorge Lopez Espindola
Michael Zimmermann
DEPUTIES

Colleen McGrath
ADMINISTRATIVE SERVICES
OFFICER

Marin County Civic Center
3501 Civic Center Drive
Suite 275
San Rafael, CA 94903
415 473 6117 T
415 473 3796 F
415 473 2226 TTY
MarinCounty.gov/Counsel

Commission on State Mandates
Filed Date
October 20, 2025

Exhibit H

October 20, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Comments to Draft Expedited Parameters and Guidelines
Test Claim Criminal Procedure: Discrimination, 24-TC-02

Dear Ms. Gmur,

Please accept the following proposed comments and modifications from the County of Marin to the Commission's Draft Expedited Parameters and Guidelines. We believe the below described "reasonably necessary activities" are activities necessary to comply with our mandated duties under AB 256's amendments to Penal Code sections 745 and 1473.

Background

AB 256 amended Penal Code sections 745 and 1473 to allow the California Racial Justice Act of 2020 to apply retroactively.

In so doing, it added the following provisions under subdivision (j) of Section 745 to allow for retroactive claims to be made on a tiered basis:

> (2) Commencing January 1, 2023, to all cases in which, at the time of the filing of a petition pursuant to subdivision (f) of Section 1473 raising a claim under this section, the petitioner is sentenced to death or to cases in which the motion is filed pursuant to Section 1473.7 because of actual or potential immigration consequences related to the conviction or sentence, regardless of when the judgment or disposition became final.
> (3) Commencing January 1, 2024, to all cases in which, at the time of the filing of a petition pursuant to subdivision (f) of Section 1473 raising a claim under this section, the petitioner is currently serving a sentence in the state prison or in a county jail pursuant to subdivision (h) of Section 1170, or committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgment or disposition became final.
> (4) Commencing January 1, 2025, to all cases filed pursuant to Section 1473.7 or subdivision (f) of Section 1473 in which judgment became

final for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice on or after January 1, 2015.
(5) Commencing January 1, 2026, to all cases filed pursuant to Section 1473.7 or subdivision (f) of Section 1473 in which judgment was for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice, regardless of when the judgment or disposition became final.

Discussion

While this test claim focuses on claims made on or after January 1, 2024 for those serving a sentence in the state prison or in a county jail pursuant to subdivision (h) of Section 1170, or committed to the Division of Juvenile Justice for a juvenile disposition, and while our post-judgment RJA work largely falls within this particular retroactive tier, the scope of work by this County from 2023 forward would likely encompass all tiered categories of cases in subdivision (j). And while not the current subject of this test claim, AB 1071, contemplates a further expansion of this County's duties under the RJA.

The County of Marin agrees with the following statements set forth in the Declaration of Deputy Public Defender Elizabeth Lashley-Haynes, in support of this test claim:

> Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code (PC) § 745 to add sub § (j)(3), which allows any petitioner currently serving a sentence in State prison or in county jail pursuant to PC § 1170(h), or committed to the Division of Juvenile Justice, regardless of when the judgment or disposition became final, to file a motion or habeas corpus writ petition alleging a racially biased prosecution under PC § 1473(e).
>
> Prior to the passage of AB 256 and the addition of PC § 745(j)(3), individuals serving State prison sentences were not eligible to file writ petitions to challenge a racially biased prosecution.
>
> Following the appointment of counsel, an attorney with the Public Defender must consult with clients, run conflict checks, investigate claims, retrieve and review records, draft and file writs or motions where appropriate, make court appearances, and document files, among other activities.

As these statements make clear, starting January 1, 2024, defendants serving a state prison or 1170(h) sentence may make a motion or file a petition for relief under the RJA, accordingly, the test claim should not be limited to claims made by "indigent habeas corpus petitioners" only; it should apply to

petitioners and claimants who make a motion or file a petition under subdivision (j)(3) of Section 745.

Akin to the duties of the Public Defender outlined in her Test Claim Declaration, the District Attorney in the County of Marin after AB 256 has additional reciprocal obligations relative to these retroactive claims.

Those duties (underlined below) that comprise the reasonably necessary activities of the District Attorney's Office pursuant to Cal. Code Regs., tit. 2, §l183.7(d), are described in detail below.

I. Discovery Under the RJA

First, the District Attorney is obligated to provide requested discovery related to an alleged violation of the RJA upon a showing of good cause. Discovery requested and provided often includes years and/or decades of data on all similar cases received and filed by the District Attorney's office including charge, enhancement, special circumstance, or special allegation information, race/ethnicity/age of defendant and race/ethnicity of victim, case number and name, disposition and sentencing information, criminal history, police reports/factual narratives of each case, file or no file considerations. Cases that fall within this (j)(3) category often involve serious/violent crimes, carrying lengthy prison sentences so the case files in each of these similar comparison cases for which the defendant seeks discovery are often comprised of 10-20 boxes of paper records. Where discovery has been ordered for decades worth of archived historical records, personnel are required to locate, organize, and review the contents of the file boxes for sometimes hundreds of cases for the ordered discovery. Personnel then digitize and redact privileged and confidential information from the discovery before disclosure to the defense. Historical data managed in various case management systems often has to be manually collected, checked for accuracy and completeness. Maintenance of our case management system, the queries and code written to gather the relevant data, and the creation of spreadsheets to exhibit this data is also part of this discovery process.

II. Review of The Record and Case File

For these post-judgment claims, a review of the record does not include only the District Attorney's case files. It also includes the record on appeal which are often comprised of tens of thousands of pages of reporter's transcripts and pleadings filed throughout the life of the case, both pre-conviction and post-judgment including writs and appeals filed in the Superior Court, Court of Appeal, and Supreme Court.

III. Expert Consultation and Analysis

Statisticians, data analysts, and implicit bias experts are often consulted and retained in these RJA matters to review the data or the facts of the case to determine if a violation occurred.

IV. Preparation of Briefs and Legal Argument – Review of Data and Expert Conclusions

RJA litigation is generally comprised of several phases: discovery, prima facie, and evidentiary hearing. Each phase often requires significant legal research and writing over many months. In the post-judgment context, briefing often entails authoring a statement of the facts and procedural history of the case taken from a lengthy record on appeal. To appropriately brief the matter at the prima facie stage, a detailed review of each line of foundational data on a several hundred page excel spreadsheet to assess accuracy and an understanding of the methodology utilized by an expert to assess reliability is often necessary. A response to a writ of habeas corpus requires even more briefing where a court may order an informal response even before the return and traverse. At each stage, extensive research and legal writing are required.

V. Court Appearances and Hearings

RJA litigation requires regular court appearances and hearings on substantive issues. Evidentiary hearings can take months and involve the testimony of witnesses including Public Defender and District Attorney experts.

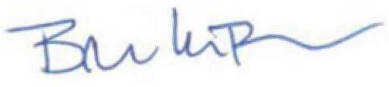
Conclusion

The duties imposed on the County of Marin as a result of the RJA, and in particular AB 256's amendments to the RJA extend beyond the simple provision of defense counsel to represent indigent habeas corpus petitioners in these retroactive claims. They include on the part of the District Attorney, 1) discovery under the RJA, 2) review of the record and case files, 3) expert consultation and analysis, 4) preparation of briefs and legal argument including a review of data and expert conclusions, and 5) court appearances/hearings. Accordingly, the County of Marin respectfully requests the Commission modify the Draft Expedited Parameters and Guidelines to include these additional "reasonably necessary activities" as part of its mandate.

Certification

Pursuant to Title 2, section 1183.8, and section 1183.3 of the California Code of Regulations, I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information, or belief, and that this declaration is executed on this 20th day of October 2025, at San Rafael, California.

Respectfully submitted,



Brian Lambert
Deputy County Counsel

DECLARATION OF DORI K. AHANA

I, Dori K. Ahana, declare as follows:

1) I am an attorney-at-law licensed to practice in all courts of the State of California and am employed as a Chief Deputy District Attorney with the County of Marin. My current assignment includes supervision of the Law and Motion/Writs and Appeals Division of our office. A large part of those duties include work on Racial Justice Act (RJA) writs and motions.
2) Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code (PC) § 745 to add sub § (j)(3), which allows any petitioner currently serving a sentence in State prison or in county jail pursuant to PC § 1170(h), or committed to the Division of Juvenile Justice, regardless of when the judgment or disposition became final, to file a motion or habeas corpus writ petition alleging a racially biased prosecution under PC § 1473(e).
3) As a result of AB 256, the District Attorney of the County of Marin has incurred additional legal obligations relative to these retroactive claims.
4) Those AB 256 obligations are as follows:
    a. Discovery under the RJA: First and foremost, the District Attorney is obligated to provide requested discovery related to an alleged violation of the RJA upon a showing of good cause. Discovery requested and provided often includes years and/or decades of data on all similar cases received and filed by the District Attorney's office including charge, enhancement, special circumstance, or special allegation information, race/ethnicity/age of defendant and race/ethnicity of victim, case number and name, disposition and sentencing information, criminal history, police reports/factual narratives of each case, file or no file considerations. Cases that fall within this (j)(3) category often involve serious/violent crimes, carrying lengthy prison sentences so the case files in each of these similar comparison cases for which the defendant seeks discovery are often comprised of 10-20 boxes of paper records. Where discovery has been ordered for decades worth of archived historical records, personnel are required to locate, organize, and review the contents of the file boxes for sometimes hundreds of cases for the ordered discovery. Personnel then digitizes and redacts privileged and confidential information from the discovery before disclosure to the defense. Historical data managed in various case management systems often has to be manually collected, checked for accuracy and completeness. Maintenance of our case management system, the queries and code written to gather the relevant data, and the creation of

spreadsheets to exhibit this data is also part of this discovery process.

b. Review of the record and case file: For these post-judgment claims, a review of the record does not include only the District Attorney's case files. It also includes the record on appeal which are often comprised of tens of thousands of pages of reporter's transcripts and pleadings filed throughout the life of the case, both pre-conviction and post-judgment including writs and appeals filed in the Superior Court, Court of Appeal, and Supreme Court.

c. Expert consultation and analysis: Statisticians, data analysts, and implicit bias experts are often consulted and retained in these RJA matters to review the data or the facts of the case to determine if a violation occurred.

d. Preparation of briefs and legal argument – review of data and expert conclusions: RJA litigation is generally comprised of several phases: discovery, prima facie, and evidentiary hearing. Each phase often requires significant legal research and writing over many months. In the post-judgment context, briefing often entails authoring a statement of the facts and procedural history of the case taken from a lengthy record on appeal. To appropriately brief the matter at the prima facie stage, a detailed review of each line of foundational data on a several hundred page excel spreadsheet to assess accuracy and an understanding of the methodology utilized by an expert to assess reliability are often necessitated. A response to a writ of habeas corpus requires even more briefing where a court may order an informal response even before the return and traverse. At each stage, extensive research and legal writing are required.

e. Court appearances and hearings: RJA litigation requires regular court appearances and hearings on substantive issues. Evidentiary hearings can take months and involve the testimony of witnesses including Public Defender and District Attorney experts.

5) The District Attorney of Marin has not received any local, State, or federal funding and does not have a fee authority to offset its increased direct and indirect costs associated with our work related to AB 256.

6) The District Attorney is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter.

I have personal knowledge of the foregoing facts and information presented in these Comments to Draft Expedited Parameters and Guidelines, and, if so required, I could and would testify to the statements made herein.

Executed this 16th day of October, 2025 in San Rafael, California.

Dori Ahana

_____

Dori K. Ahana
Chief Deputy District Attorney
Marin County District Attorney's Office

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

Exhibit I

Sacramento County District Attorney's Office
THIEN HO
District Attorney

Commission on State Mandates
Filed Date
October 20, 2025

October 20, 2025

Ms. Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, Ca. 95814

RE: Comments on Draft Expedited Parameters and Guidelines, Test Claim 24-TC-02, Criminal Procedure: Discrimination

Dear Ms. Gmur:

Please accept the Sacramento County District Attorney's comments and recommended changes to the Commission's Draft Expedited Parameters and Guidelines.

The Commission found that the requirements of Assembly Bill 256 (AB 256) created a new state-mandated local program or higher level of service for which the state is required to reimburse local governments for their costs incurred to comply with these requirements. In addition to the reimbursable activity identified by the Los Angeles County Public Defender and approved by the Commission, the Sacramento County District Attorney's Office has similarly been required to dedicate additional staff, expand the scope of our work and incur additional costs because of AB 256. As such, the Sacramento County District Attorney's Office encourages the Commission to consider expanding the Draft Expedited Parameters and Guidelines to include the additional "reasonably necessary activities" as defined by Cal. Code Regs., tit. 2, §1183.7(d) that now must be performed by our office.

For example, prior to the enactment of the Racial Justice Act (RJA) and AB 256's amendment to the RJA, claims for post-conviction discovery were controlled by Penal Code section 1054.9. Only defendants who had been convicted of a serious or violent felony resulting in a sentence of 15 years or more were eligible to seek post-conviction discovery under the statute, and they were only entitled to obtain materials to which they would have been entitled at time of trial. After the passage of the RJA, Penal Code section 745(d) now authorizes a defendant to file a motion for post-conviction discovery requesting disclosure of all evidence relevant to a potential violation of the RJA without regard to the type of conviction or length of the sentence. Furthermore, the material typically requested regarding a potential violation of the RJA is not material that would be eligible for disclosure pursuant to Penal Code section 1054.9. Statistical information regarding charging decisions or sentencing information on other cases to be used as case comparators is not the type of discovery material a defendant would normally "have

been entitled to at the time of the trial." As a result, the number of requests for post-conviction discovery and the scope of those requests have greatly expanded under the RJA.

Similarly, requests for pre-trial discovery were controlled by Penal Code section 1054 *et. seq.* Pursuant to Penal Code section 1054.1, the prosecution shall disclose:

(a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.
(b) Statements of all defendants.
(c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.
(d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.
(e) Any exculpatory evidence.
(f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

However, Penal Code section 745(d) now authorizes a defendant pending criminal charges to file a request for disclosure of all evidence relevant to a potential violation of the RJA. The scope of material that can be requested pursuant to Penal Code section 745(d) far exceeds the previous scope of the prosecution's discovery obligations under Penal Code section 1054.1.

This increase in pre-trial and post-conviction requests for discovery has resulted in our office having to dedicate additional attorneys, investigative and support staff to address the increase in litigation. For example, investigative staff must now search law enforcement and other databases and order birth and/or death certificates, coroner's reports and police reports to search for racial demographic information on victims, witnesses and defendants. Support staff must now gather documents from the superior and appellate courts to be analyzed in conjunction with the pending RJA discovery motion. Attorneys must now review requests for RJA discovery, research and review old case files and trial transcripts, respond to court orders, make additional court appearances and litigate discovery motions that did not exist prior to the enactment of the RJA.

Furthermore, the Sacramento County District Attorney's Office was compelled to retain the services of a data analytics firm to engage in large-scale data retrieval, verification, and empirical analysis to evaluate, under the RJA, whether similarly situated individuals receive similar charging decisions, convictions, and sentences. Additionally, the data analytics firm has been and will continue to be needed to analyze data proffered by defense counsel in individual cases and provide expert testimony during contested hearings, which will result in indefinite, reoccurring costs.

Accordingly, the Sacramento County District Attorney's Office recommends adding the following reasonably necessary activities described below to the Draft Expedited Parameters and Guidelines:

Discovery: Upon receipt of a pre-trial discovery motion or post-conviction writ filed pursuant to Penal Code section 745(d), an attorney must review the filing to determine whether it states a sufficient legal basis for the request. If it is determined that the request is legally insufficient, the attorney must then research, write and file an opposition to the request. The attorney must then appear in court to litigate the discovery issues.

If the attorney, or the court, determines the request for discovery is legally sufficient, the District Attorney's Office is obligated to provide the requested discovery related to the alleged violation(s) of the RJA. Depending on the nature of the material requested, gathering the ordered discovery would require investigative staff to research, order and obtain records from law enforcement agencies and other entities. Support staff would have to order and obtain superior and appellate court records. Internet Technology (IT) and data analytics staff would have to query case management systems and prepare reports. Attorneys would have to review the material returned by the investigative, support and technical staff. Additionally, attorneys would have to order old case files, review those files, and collect responsive information from each file. Often these old cases involve serious and/or violent crimes and the file can encompass 5-25 boxes of paper records and audio/visual/electronic media. If the discovery ordered is connected to a post-conviction claim, attorneys will also need to review the record on appeal for each case. The appellate record is often comprised of thousands of pages of reporter's transcripts, clerk's transcripts and pleadings filed in the Superior Court, Court of Appeal, and Supreme Court. Once the responsive discovery has been collected, support staff would need to digitize and redact privileged and confidential information from the discovery before disclosure to the defense.

Litigation of substantive claims: Upon receipt of a pre-trial motion or post-conviction writ alleging a substantive violation of Penal Code section 745(a)(1)-(4), attorneys must review the filing and prepare to litigate the legal sufficiency of the defendant's claim(s). Attorneys must research, write and file responsive pleadings. If the substantive claim involves an alleged violation of Penal Code section 745(a)(1) or (2), attorneys may be required to consult with implicit bias and other subject matter experts to prepare for litigation. If the substantive claim involves an alleged violation of Penal Code section 745(a)(3) or (4), attorneys will be required to consult with IT staff, statisticians, and/or data analysts to evaluate the evidence proffered by the defendant and prepare to present our own statistical data to the court. Attorneys will be required to meet with the witnesses they intend to present at the evidentiary hearing and prepare for their eventual testimony. While the litigation is pending, attorneys will be required to make regular court appearances and attend hearings on the substantive issues.

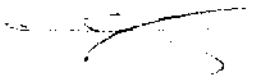
One-time and ongoing expert costs: As a result of the RJA and AB 256's amendment to the RJA, the Sacramento County District Attorney's Office was compelled to retain the services of a data analytics firm to engage in large-scale data retrieval, verification, and empirical analysis. Additionally, the data analytics firm will be needed to analyze data proffered by defense counsel in individual cases and provide expert testimony during contested hearings, which will

result in indefinite, reoccurring costs. Depending on the nature of the substantive claim, it is also anticipated the District Attorney's Office will need to consult and hire subject matter experts in areas such as sociology, racial demographics and implicit bias to assist attorneys in preparation for contested hearings and provide expert testimony during those hearings.

AB 256 amended Penal Code sections 745 and 1473 to allow the California Racial Justice Act of 2020 to apply retroactively. In so doing, it amended Penal Code section 745(j) to allow for retroactive claims to be made on a tiered basis. The present Test Claim focuses on claims made pursuant to Penal Code section 745(j)(3). While many of the RJA claims filed in Sacramento County also fall within that retroactive tier, it is important to note the scope of work performed by the Sacramento County District Attorney's Office from 2023 forward has, and likely will, encompass all tiered categories of cases in Penal Code section 745(j). Additionally, recently enacted Assembly Bill 1071 will further expand the Sacramento County District Attorney's Office's duties under the RJA starting on January 1, 2026.

The duties imposed on the Sacramento County District Attorney's Office as a result of the RJA and AB 256's amendments to the RJA extend beyond the singular reimbursable activity approved in the Test Claim and presently included in the Draft Expedited Parameters and Guidelines. Accordingly, the Sacramento County District Attorney's Office respectfully requests the Commission modify the Draft Expedited Parameters and Guidelines to include these additional "reasonably necessary activities" described above as part of its mandate.

Respectfully submitted,



Michael Blazina
Assistant District Attorney
Sacramento County District Attorney's Office

DECLARATION OF MICHAEL BLAZINA

I, Michael Blazina, declare as follows:

1) I am an attorney-at-law licensed to practice in all courts of the State of California. I am employed as the Assistant District Attorney for the County of Sacramento. My current assignment includes management of the Justice, Training and Integrity Unit. The Justice, Training and Integrity Unit is tasked with litigating post-conviction matters and Racial Justice Act (RJA) writs and motions.

2) Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code section 745 to add subdivision (j)(3), which allows any petitioner currently serving a sentence in state prison or in county jail pursuant to Penal Code section 1170(h), or committed to the Division of Juvenile Justice, regardless of when the judgment or disposition became final, to file a motion or habeas corpus writ petition alleging a racially biased prosecution under Penal Code section 1473(e).

3) As a result of AB 256, the Sacramento County District Attorney's Office has incurred additional legal obligations relative to these retroactive claims.

4) Those AB 256 obligations are as follows:

   a. Discovery: Upon receipt of a pre-trial discovery motion or post-conviction writ filed pursuant to Penal Code section 745(d), an attorney must review the filing to determine whether it states a sufficient legal basis for the request. If it is determined that the request is legally insufficient, the attorney must then research, write and file an opposition to the request. The attorney must then appear in court to litigate the discovery issues.

      If the attorney, or the court, determines the request for discovery is legally sufficient, the District Attorney's Office is obligated to provide the requested discovery related to the alleged violation(s) of the RJA. Depending on the nature of the material requested, gathering the ordered discovery would require investigative staff to research, order and obtain records from law enforcement agencies and other entities, including ordering birth and/or death certificates, coroner's reports and police reports to search for racial demographic information on victims, witnesses and defendants. Support staff would have to order and obtain superior and appellate court records. Internet Technology (IT) and data analytics staff would have to query case management systems and prepare reports. Attorneys would have to review the material returned by the investigative, support and technical staff. Additionally, attorneys would have to order old case files, review those files, and collect responsive information from each file. Often these old cases involve serious and/or violent crimes and the file can encompass 5-25 boxes of paper records and audio/visual/electronic media. If the discovery ordered is connected to a post-conviction claim, attorneys will also need to review the record on appeal for each case. The appellate record is often

comprised of thousands of pages of reporter's transcripts, clerk's transcripts and pleadings filed in the Superior Court, Court of Appeal, and Supreme Court. Once the responsive discovery has been collected, support staff would need to digitize and redact privileged and confidential information from the discovery before disclosure to the defense.

b. Litigation of substantive claims: Upon receipt of a pre-trial motion or post-conviction writ alleging a substantive violation of Penal Code section 745(a)(1)-(4), attorneys must review the filing and prepare to litigate the legal sufficiency of the defendant's claim(s). Attorneys must research, write and file responsive pleadings. If the substantive claim involves an alleged violation of Penal Code section 745(a)(1) or (2), attorneys may be required to consult with implicit bias and other subject matter experts to prepare for litigation. If the substantive claim involves an alleged violation of Penal Code section 745(a)(3) or (4), attorneys will be required to consult with IT staff, statisticians, and/or data analysts to evaluate the evidence proffered by the defendant and prepare to present our own statistical data to the court. Attorneys will be required to meet with the witnesses they intend to present at the evidentiary hearing and prepare for their eventual testimony. While the litigation is pending, attorneys will be required to make regular court appearances and attend hearings on the substantive issues.

c. One-time and ongoing expert costs: As a result of the RJA and AB 256's amendment to the RJA, the Sacramento County District Attorney's Office was compelled to retain the services of a data analytics firm to engage in large-scale data retrieval, verification, and empirical analysis to evaluate whether similarly situated individuals receive similar charging decisions, convictions, and sentences. Additionally, the data analytics firm has been and will continue to be needed to analyze data proffered by defense counsel in individual cases and provide expert testimony during contested hearings, which will result in indefinite, reoccurring costs. Depending on the nature of the substantive claim, it is also anticipated the District Attorney's Office will need to consult and hire subject matter experts in areas such as sociology, racial demographics and implicit bias to assist attorneys in preparation for contested hearings and provide expert testimony during those hearings.

5) The Sacramento County District Attorney's Office has not received any local, state, or federal funding and does not have a fee authority to offset its increased direct and indirect costs associated with our work related to AB 256.

6) The Sacramento County District Attorney's Office is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter.

I have personal knowledge of the foregoing facts and information presented in these Comments to Draft Expedited Parameters and Guidelines, and, if so required, I could and

would testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of October, 2025 in Sacramento, California.

Michael Blazina
Assistant District Attorney
Sacramento County District Attorney's Office
901 G Street
Sacramento, Ca. 95814
916-874-5294
BlazinaM@sacda.org

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

Office of the District Attorney
Stanislaus County

Jeff Laugero
District Attorney

Assistant District Attorney
Mark Zahner

Chief Deputies
Wendell Emerson
Michael D. Houston
Rick Mury
Joseph Chavez

Bureau of Investigation
Chief Terry L. Seese

Exhibit J

Commission on State Mandates
Filed Date
October 20, 2025

October 20, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Comments to Draft Expedited Parameters and Guidelines
Test Claim Criminal Procedure: Discrimination, 24-TC-02

Dear Ms. Gmur:

We appreciate the difficult work the Commission on State Mandates is doing to help counties recoup the increased costs of complying with new state mandates arising from recent legislation. Our office herein submits for your consideration the following proposed comments and modifications to the Commission's Draft Expedited Parameters and Guidelines. The duties and obligations described below are "reasonably necessary activities" required by our office to comply with our mandated duties under AB 256's amendments to Penal Code sections 745 and 1473.

The Racial Justice Act For All Created Additional Mandated Duties

Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code sections 745 and 1473 to allow the California Racial Justice Act of 2020 to apply **retroactively.** AB 256, amended Penal Code section 745 to add subdivision (j)(3), which allows any petitioner currently serving a sentence in State prison or in county jail pursuant to Penal Code section 1170(h), or committed to the Division of Juvenile Justice, regardless of when the judgment or disposition became final, to file a motion or habeas corpus writ petition alleging a racially biased prosecution under Penal Code section 1473(e).

Prior to the passage of AB 256 and the addition of Penal Code section 745(j)(3), individuals serving State prison sentences were not eligible to file writ petitions to challenge a conviction alleging racial bias.

The Guidelines Should Include Reimbursement of All the Increased Costs for Both Parties Involved in RJA Matters

The test claim before the Commission focuses on claims made by those offices representing indigent habeas corpus petitioners only. It is not just the public defenders and those representing indigent petitioners who incur additional costs. The guidelines should consider claims made from district attorneys in reviewing and opposing such petitions under Penal Code Section 745.

The following duties are reasonably necessary activities of the District Attorney's Office pursuant to Cal. Code Regs., tit. 2, §1183.7(d):

Discovery under the RJA: First and foremost, the District Attorney is obligated to provide requested discovery related to an alleged violation of the RJA upon a showing of good cause. Discovery requested and provided often includes years and/or decades of data on all similar cases received and filed by the District Attorney's office including charge, enhancement, special circumstance, or special allegation information, race/ethnicity/age of defendant and race/ethnicity of victim, case number and name, disposition and sentencing information, criminal history, police reports/factual narratives of each case, file or no file considerations. Cases that fall within this (j)(3) category often involve serious/violent crimes, carrying lengthy prison sentences so the case files in each of these similar comparison cases for which the defendant seeks discovery are often comprised of 10-20 boxes of paper records. Where discovery has been ordered for decades worth of archived historical records, personnel are required to locate, organize, and review the contents of the file boxes for sometimes hundreds of cases for the ordered discovery. Personnel then digitizes and redacts privileged and confidential information from the discovery before disclosure to the defense. Historical data managed in various case management systems often has to be manually collected, checked for accuracy and completeness. Maintenance of our case management system, the queries and code written to gather the relevant data, and the creation of spreadsheets to exhibit this data is also part of this discovery process.

Review of the record and case file: For these post-judgment claims, a review of the record does not include only the District Attorney's case files. It also includes the record on appeal which are often comprised of tens of thousands of pages of reporter's transcripts and pleadings filed throughout the life of the case, both pre-conviction and post-judgment including writs and appeals filed in the Superior Court, Court of Appeal, and Supreme Court.

Expert consultation and analysis: Statisticians, data analysts, and implicit bias experts are often consulted and retained in these RJA matters to review the data or the facts of the case to determine if a violation occurred.

Preparation of briefs and legal argument – review of data and expert conclusions: RJA litigation is generally comprised of several phases: discovery, prima facie, and evidentiary hearing. Each phase often requires significant legal research and writing over many months. In the post-

judgment context, briefing often entails authoring a statement of the facts and procedural history of the case taken from a lengthy record on appeal. To appropriately brief the matter at the prima facie stage, a detailed review of each line of foundational data on a several hundred page excel spreadsheet to assess accuracy and an understanding of the methodology utilized by an expert to assess reliability are often necessitated. A response to a writ of habeas corpus requires even more briefing where a court may order an informal response even before the return and traverse. At each stage, extensive research and legal writing are required.

Court appearances and hearings: RJA litigation requires regular court appearances and hearings on substantive issues. Evidentiary hearings can take months and involve the testimony of witnesses including Public Defender and District Attorney experts.

The duties imposed on Stanislaus County because of the RJA, and in particular AB 256's amendments to the RJA extend beyond the simple provision of defense counsel to represent indigent habeas corpus petitioners in these retroactive claims. They include additional duties for our office which fall far outside the scope of our normal statutory duties to seek justice and prosecute cases. Accordingly, the Stanislaus County District Attorney's Office respectfully requests the Commission modify the Draft Expedited Parameters and Guidelines to include these additional "reasonably necessary activities" as part of its mandate.

Respectfully submitted,

JEFF LAUGERO
Stanislaus County District Attorney

DECLARATION OF MARK L. ZAHNER

I, Mark L. Zahner, declare as follows:

1) I am an attorney-at-law licensed to practice in all courts of the State of California and am employed as the Assistant District Attorney with the County of Stanislaus. My current assignment includes supervision of the Law and Motion/Writs and Appeals Division of our office. A large part of those duties include work on Racial Justice Act (RJA) writs and motions.
2) Assembly Bill (AB) 256, known as the Racial Justice Act for All, amended Penal Code (PC) § 745 to add sub § (j)(3), which allows any petitioner currently serving a sentence in State prison or in county jail pursuant to PC § 1170(h), or committed to the Division of Juvenile Justice, regardless of when the judgment or disposition became final, to file a motion or habeas corpus writ petition alleging a racially biased prosecution under PC § 1473(e).
3) As a result of AB 256, the District Attorney of the County of Stanislaus has incurred additional legal obligations relative to these retroactive claims.
4) Those AB 256 obligations are as follows:
    a. Discovery under the RJA: First and foremost, the District Attorney is obligated to provide requested discovery related to an alleged violation of the RJA upon a showing of good cause. Discovery requested and provided often includes years and/or decades of data on all similar cases received and filed by the District Attorney's office including charge, enhancement, special circumstance, or special allegation information, race/ethnicity/age of defendant and race/ethnicity of victim, case number and name, disposition and sentencing information, criminal history, police reports/factual narratives of each case, file or no file considerations. Cases that fall within this (j)(3) category often involve serious/violent crimes, carrying lengthy prison sentences so the case files in each of these similar comparison cases for which the defendant seeks discovery are often comprised of 10-20 boxes of paper records. Where discovery has been ordered for decades worth of archived historical records, personnel are required to locate, organize, and review the contents of the file boxes for sometimes hundreds of cases for the ordered discovery. Personnel then digitizes and redacts privileged and confidential information from the discovery before disclosure to the defense. Historical data managed in various case management systems often has to be manually collected, checked for accuracy and completeness. Maintenance of our case management system, the queries and code written to gather the relevant data, and the creation of spreadsheets to exhibit this data is also part of this discovery process.
    b. Review of the record and case file: For these post-judgment claims, a review of the record does not include only the District Attorney's case files. It also includes the record on appeal which are often comprised of tens of thousands of pages of reporter's transcripts and pleadings filed throughout the life of the case, both pre-conviction and post-judgment including writs and appeals filed in the Superior Court, Court of Appeal, and Supreme Court.

c. Expert consultation and analysis: Statisticians, data analysts, and implicit bias experts are often consulted and retained in these RJA matters to review the data or the facts of the case to determine if a violation occurred.
d. Preparation of briefs and legal argument – review of data and expert conclusions: RJA litigation is generally comprised of several phases: discovery, prima facie, and evidentiary hearing. Each phase often requires significant legal research and writing over many months. In the post-judgment context, briefing often entails authoring a statement of the facts and procedural history of the case taken from a lengthy record on appeal. To appropriately brief the matter at the prima facie stage, a detailed review of each line of foundational data on a several hundred page excel spreadsheet to assess accuracy and an understanding of the methodology utilized by an expert to assess reliability are often necessitated. A response to a writ of habeas corpus requires even more briefing where a court may order an informal response even before the return and traverse. At each stage, extensive research and legal writing are required.
e. Court appearances and hearings: RJA litigation requires regular court appearances and hearings on substantive issues. Evidentiary hearings can take months and involve the testimony of witnesses including Public Defender and District Attorney experts.

5) The District Attorney of Stanislaus County has not received any local, State, or federal funding and does not have a fee authority to offset its increased direct and indirect costs associated with our work related to AB 256.
6) The District Attorney is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter.

I have personal knowledge of the foregoing facts and information presented in these Comments to Draft Expedited Parameters and Guidelines, and, if so required, I could and would testify to the statements made herein.

Executed this _20_th day of October, 2025 in Modesto, California.

Mark L. Zahner
Assistant District Attorney
Stanislaus County District Attorney's Office

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533

Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *Solano County*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266
Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

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

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123
Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

November 25, 2025

Exhibit K

Mr. Chris Hill
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. Fernando Lemus
County of Los Angeles
500 West Temple Street, Room 603
Los Angeles, CA 90012

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Decision and Parameters and Guidelines, Schedule for Comments, and Notice of Hearing
Criminal Procedure: Discrimination, 24-TC-02
Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023
County of Los Angeles, Claimant

Dear Mr. Hill and Mr. Lemus:

The Draft Proposed Decision and Parameters and Guidelines for the above-captioned matter is enclosed for your review and comment.

Written Comments: Written comments may be filed on the Draft Proposed Decision no later than **5:00 pm on December 16, 2025**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[1]

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to https://www.csm.ca.gov/dropbox.shtml on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

[1] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Hearing: This matter is set for hearing on **Friday, February 13, 2026** at 10:00 a.m. The Proposed Decision will be issued on or about January 30, 2026.

If you plan to address the Commission on this item, please notify the Commission Office not later than noon on the Tuesday prior to the hearing, **February 10, 2026.** Please also include the names of the people who will be speaking for inclusion on the witness list and the names and emails addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Very truly yours,

Juliana F. Gmur
Executive Director

Hearing Date: February 13, 2026

ITEM ___

DRAFT PROPOSED DECISION AND PARAMETERS AND GUIDELINES

Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023

Criminal Procedure: Discrimination

24-TC-02

Period of Reimbursement begins July 1, 2023

EXECUTIVE SUMMARY

I. Summary of the Mandate

These Parameters and Guidelines address new state-mandated activities and costs resulting from Penal Code sections 745(j)(3) and 1473(f), as amended by Statutes 2022, chapter 739, also known as the Racial Justice for All Act, effective January 1, 2023.

On September 26, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim legislation imposes a reimbursable state-mandated program upon counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.[1]

II. Procedural History

The Commission adopted the Test Claim Decision on September 26, 2025.[2] Commission staff issued the Draft Expedited Parameters and Guidelines on September 29, 2025.[3] On October 20, 2025, the State Controller's Office filed comments on the Draft Expedited Parameters and Guidelines recommending no changes.[4] Also on October 20, 2025, the County of Santa Clara, the County of Contra Costa Office of the District Attorney, County of Sonoma Office of the District Attorney,

---

[1] Exhibit A, Test Claim Decision, page 41.

[2] Exhibit A, Test Claim Decision.

[3] Exhibit B, Draft Expedited Parameters and Guidelines.

[4] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

City and County of San Francisco Office of the District Attorney, County of Marin, County of Sacramento Office of the District Attorney, and County of Stanislaus Office of the District Attorney filed comments on the Draft Expedited Parameters and Guidelines.[5]

Commission staff issued the Draft Proposed Decision and Parameters and Guidelines on November 25, 2025.

III. Positions of the Parties and Interested Parties

A. County of Los Angeles

The claimant did not file comments on the Draft Expedited Parameters and Guidelines.

B. State Controller

The Controller filed comments on the Draft Expedited Parameters and Guidelines recommending no changes.[6]

C. County of Santa Clara

The County of Santa Clara filed comments on the Draft Expedited Parameters and Guidelines, seeking reimbursement for further public defender costs.[7] Reimbursement for the following is requested as "reasonably necessary activities":

> (1) the costs associated with investigating the Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel; and (2) the costs of requesting court transcripts, as well as CDCR records.[8]

[5] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines; Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines; Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines.

[6] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines, page 1.

[7] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

[8] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 4.

D. County of Contra Costa Office of the District Attorney, County of Sonoma Office of the District Attorney, City and County of San Francisco Office of the District Attorney, County of Marin, County of Sacramento Office of the District Attorney, and County of Stanislaus Office of the District Attorney

These Counties request reimbursement, as reasonably necessary activities, to respond to Racial Justice Act (RJA) discovery motions and other actions in response or defense to an RJA petition.[9]

IV. Discussion

The proposed Parameters and Guidelines provide as follows:

A. Eligible Claimants (Section II. of the Parameters and Guidelines)

Any county, or city and county subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes, and that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on December 19, 2024, establishing eligibility for reimbursement for the 2023-2024 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2023.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

Section IV. of the Parameters and Guidelines identifies the mandated activities approved by the Commission:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a

[9] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-13; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-4; Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 1-17; Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.[10]

Several County Public Defender and District Attorney Offices request additional reimbursement for "reasonably necessary" activities for both the public defender and district attorney activities. "Reasonably necessary activities" must be necessary for the performance *of the state-mandated program*, and any activity required by statutes, regulations, and other executive orders that were not pled in the Test Claim may only be used if the state-mandated program were rendered impossible without them.[11] Activities that go beyond the scope of the mandate are not eligible for reimbursement.

One Public Defender's Office requested reimbursement for the costs of requesting court transcripts, as well as CDCR records.[12] These are direct costs of the mandated program and are already provided for in Section V.A.1-3 of the Parameters and Guidelines as salary and benefits and materials and supplies. Thus, no changes to the Parameters and Guidelines are needed to address this request.

The County of Santa Clara, on behalf of its Public Defender's Office, also requested reimbursement for the costs associated with investigating the Racial Justice Act claim and preparing the petition "prior to, and irrespective of, official appointment as habeas counsel."[13] However, any activity "prior to, and irrespective of, official appointment as habeas counsel" plainly exceeds the scope of the mandate on counties to provide counsel "when appointed by the court."[14] The test claim statute, Penal Code sections 1473(f), identifies that the mandate begins when "the court shall appoint counsel if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of Section 745 or the State Public Defender requests counsel be appointed." Although public defenders may choose under their *existing* ethical obligations to advise former clients before the appointment of counsel by the court pursuant to section 1473(f), these costs are not mandated by the test claim statute and are not reasonably necessary to carry out the mandated program. As the Test Claim Decision states, there is no pre-existing right to post-conviction counsel under federal or state law.[15] The state-mandated right to counsel exists here *only* under the terms of the test claim statute, and the mandate begins when the court appoints counsel.[16]

---

[10] Exhibit A, Test Claim Decision, page 41.

[11] California Code of Regulations, title 2, section 1183.7(d).

[12] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 5.

[13] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 5.

[14] Exhibit A, Test Claim Decision, page 41.

[15] Exhibit A, Test Claim Decision, pages 30-31.

[16] *Bemore v. Superior Court* (2025) 108 Cal.App.5th 1125, 1146 ("Although there is no state or federal constitutional right to counsel to assist with a collateral attack on a

Six District Attorney Offices request reimbursement for:

- responding to RJA discovery; and
- all work in response to RJA petitions[17]

Staff finds that these requests are not reasonably necessary to comply with the mandate. The state-mandated program in this case is limited to counties providing public defender services pursuant to Penal Code sections 1473(f), which declares, in part, that "the court shall appoint counsel if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of Section 745 or the State Public Defender requests counsel be appointed" and 745(j)(3), which declares, in part, that the right to bring an RJA petition exists "regardless of when the judgment or disposition became final", as amended by the 2022 test claim statute. These code sections do not require the district attorney to provide any services as respondents to an RJA petition or to defend the actions alleged in the RJA petition. Rather, the district attorney has general prosecutorial discretion bestowed and controlled by existing state law.[18] The work of the district attorneys in response to RJA petitions remains under their prosecutorial discretion to respond to the petition and in response to any court orders made in the case, rather than from a mandate of the state. Appropriations required to comply with orders or mandates of the courts, "which, without discretion, require an expenditure for additional services or which unavoidably make the

---

criminal judgment, California confers a statutory right to counsel in postconviction proceedings under some circumstances."); Penal Code section 1473(f), as amended by Statutes 2022, chapter 739 (later renumbered as 1473(e)).

[17] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-13; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-4; Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 1-17; Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

[18] *Miller v. Superior Court* (2002) 101 Cal.App.4th 728, 745 ("The prosecutor ordinarily has sole discretion to determine whom to charge, what charges to file and pursue, and what punishment to seek."); California Constitution, article V, section 13 (State Attorney General supervises "every district attorney."); Government Code section 100(b); Government Code section 26500 ('The district attorney is the public prosecutor, except as otherwise provided by law. The public prosecutor shall attend the courts, and within his or her discretion shall initiate and conduct on behalf of the people all prosecutions for public offenses."): *Dix v. Superior Court* (1991) 53 Cal.3d 442, 452 (public interest standing does not prevail "over the public prosecutor's exclusive discretion in the conduct of criminal cases").

provision of existing services more costly" are not subject to the local government appropriations limit in article XIII B[19] and, are therefore, not entitled to reimbursement under article XIII B, section 6.[20]

The Test Claim Decision accordingly addressed the state-mandated program on counties to provide public defender services *only*.[21] "The proposed parameters and guidelines may include proposed reimbursable activities that are reasonably necessary for the performance *of the state-mandated program*."[22] The request for reimbursement of district attorney activities is therefore beyond the scope of the state-mandated program.

D. Remaining Sections of the Parameters and Guidelines

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

V. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines and authorize staff to make any technical, non-substantive changes to the Proposed Decision and Parameters and Guidelines following the hearing.

[19] California Constitution, article XIII B, section 9(b).

[20] Courts have recognized that reimbursement under article XIII B, section 6 is not required when the expenditure of local costs is excluded from the constitutional spending limit because those costs are not shifted *by the state*. *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 70-71; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1581; *County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4th 898, 907); see also, *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986-987.

[21] Exhibit A, Test Claim Decision, page 19.

[22] Government Code section 17557(a), emphasis added.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023 The period of reimbursement begins July 1, 2023.	Case No.: 24-TC-02 *Criminal Procedure: Discrimination* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted February 13, 2026*)

DECISION

The Commission on State Mandates (Commission) heard and decided this Decision and Parameters and Guidelines during a regularly scheduled hearing on February 13, 2026. [Witness list will be included in the adopted Decision and Parameters and Guidelines.]

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 sections 17500 et seq., and related case law.

The Commission [adopted/modified/rejected] the Proposed Decision and Parameters and Guidelines by a vote of [vote will be included in the adopted Decision and Parameters and Guidelines], as follows:

Member	**Vote**
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller, Vice Chairperson	
Karen Greene Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	

I. Summary of the Mandate

These Parameters and Guidelines address new state-mandated activities and costs resulting from Penal Code sections 745(j)(3) and 1473(f), as amended by Statutes 2022, chapter 739, also known as the Racial Justice for All Act, effective January 1, 2023.

On September 26, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim legislation imposes a reimbursable state-mandated program upon counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.[23]

II. Procedural History

The Commission adopted the Test Claim Decision on September 26, 2025.[24] Commission staff issued the Draft Expedited Parameters and Guidelines on September 29, 2025.[25] On October 20, 2025, the State Controller's Office filed comments on the Draft Expedited Parameters and Guidelines recommending no changes.[26] Also on October 20, 2025, the County of Santa Clara, the County of Contra Costa Office of the District Attorney, County of Sonoma Office of the District Attorney, City and County of San Francisco Office of the District Attorney, County of Marin, County of Sacramento Office of the District Attorney, and County of Stanislaus Office of the District Attorney filed comments on the Draft Expedited Parameters and Guidelines.[27] The claimant did not file comments on the Draft Expedited Parameters and Guidelines.

---

[23] Exhibit A, Test Claim Decision, page 41.

[24] Exhibit A, Test Claim Decision.

[25] Exhibit B, Draft Expedited Parameters and Guidelines.

[26] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

[27] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines; Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines; Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft

Commission staff issued the Draft Proposed Decision and Parameters and Guidelines on November 25, 2025.

III. Positions of the Parties and Interested Parties

A. County of Los Angeles

The claimant did not file comments on the Draft Expedited Parameters and Guidelines.

B. State Controller

The Controller filed comments on the Draft Expedited Parameters and Guidelines recommending no changes.[28]

C. County of Santa Clara

The County of Santa Clara filed comments on the Draft Expedited Parameters and Guidelines, seeking reimbursement for further public defender costs.[29] Reimbursement for the following is requested as "reasonably necessary activities":

> (1) the costs associated with investigating the Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel; and (2) the costs of requesting court transcripts, as well as CDCR records.[30]

D. County of Contra Costa Office of the District Attorney, County of Sonoma Office of the District Attorney, City and County of San Francisco Office of the District Attorney, County of Marin, County of Sacramento Office of the District Attorney, and County of Stanislaus Office of the District Attorney

Six county district attorney offices filed comments on the Draft Expedited Parameters and Guidelines, advocating that some or all their activities responding to Racial Justice Act (RJA) habeas corpus petitions be reimbursed as "reasonably necessary activities" to the state-mandated program.[31] Two offices advocated reimbursing district attorney

---

Expedited Parameters and Guidelines; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines.

[28] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines, page 1.

[29] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

[30] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 5.

[31] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-13; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-4; Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 1-17; Exhibit I, County of Sacramento Office of the District Attorney's

activities responsive to RJA petition discovery *only*.[32] Four offices advocated reimbursing *all* responsive activities.[33]

1. District Attorney Reimbursement Requests for Activities Responding to RJA Discovery Motions *Only*

The County of Contra Costa Office of the District Attorney and County of Sonoma Office of the District Attorney request reimbursement for responding to RJA discovery motions. They identically request the following as "reasonably necessary activities" to the state-mandated program, to "appropriately respond to these new discovery mandates"[34]:

> Preparation activities undertaken by the District Attorney's Office, including extraction, review, and synthesis of case data and evidence necessary to comply with the statutory requirements imposed by the mandate;
>
> and
>
> Personnel costs borne by the District Attorney's Office, to appropriately respond to habeas petitioner's claims for discovery, which are necessary to comply with the statutory requirements imposed by the mandate.[35]

The County of Contra Costa Office of the District Attorney attached a court order signed by Judge Julia Campins on September 24, 2025, addressing the district attorney's

---

Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

[32] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-13; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-4.

[33] Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 1-17; Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

[34] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 2.

[35] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 2-3; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-2.

delayed discovery response to an RJA petition.[36] Contra Costa states that "[d]ue to the absence of data synthesis systems to efficiently access and compile this type of information, Petitioner has not received the information necessary to proceed with his habeas petition."[37]

The Sonoma County District Attorney's Office has incurred additional legal obligations and costs due to RJA claims, including discovery comprised of potentially "decades of case-specific data on cases unrelated to petitioner's, but sharing either 'offense type' or 'charge.'"[38] The data is "*historical*" and located in "decades worth of archived, paper case files" that must be "manually collected."[39] Work also includes review of the record and case file, expert consultation and analysis, preparation of briefs and legal argument, and court appearances and hearings, for which the county has "not received any local, State, or federal funding specific to the implementation of AB 256, and has not received any grant funding" as an offset.[40]

2. District Attorney Reimbursement Requests for *All* Activities Responding to RJA Petitions

The City and County of San Francisco Office of the District Attorney, County of Marin, County of Sacramento Office of the District Attorney, and County of Stanislaus Office of the District Attorney request that *all* district attorney activities responding to RJA petitions be reimbursable as "reasonably necessary activities" to the state-mandated program.

The City and County of San Francisco Office of the District Attorney seeks reimbursement for the following as "reasonably necessary activities" to the state-mandated program:

---

[36] Exhibit E, Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 4-12.

[37] Exhibit E, Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 1.

[38] County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 3 (Declaration of Andrea E. Tavenier, Chief Deputy District Attorney).

[39] County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 3 (Declaration of Andrea E. Tavenier, Chief Deputy District Attorney), emphasis in original.

[40] County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 3-4 (Declaration of Andrea E. Tavenier, Chief Deputy District Attorney).

> case review; discovery (including motion work, court hearings, processing, and production); and evidentiary hearings (including pre-hearing discovery, expert witnesses, briefing, and transcripts).[41]

The San Francisco District Attorney has not received any local, State, or federal funding and does not have a fee authority to offset its increased direct or indirect costs related to AB 256.[42]

The City and County of San Francisco Office of the District Attorney also notes recent legislation on RJA discovery. "On October 13, 2025, Governor Newsom signed AB 1071, which amends subdivision (d) of section 745 to allow a defendant or petitioner to file a motion for discovery of all evidence relevant to a potential violation of subdivision (a) of section 745. Thus, with the concurrent amendment to section 1473, this discovery motion provision will now also apply to indigent habeas corpus petitioners."[43]

The County of Marin seeks reimbursement for the following as "reasonably necessary activities" to the state-mandated program:

> 1) discovery under the RJA [Racial Justice Act], 2) review of the record and case files, 3) expert consultation and analysis, 4) preparation of briefs and legal argument including a review of data and expert conclusions, and 5) court appearances/hearings.[44]

The County of Marin outlines the legal responsibilities in responding to RJA petitions as responding to discovery under the RJA, reviewing the record and case file, engaging with expert consultation and analysis, preparing briefs and legal argument, including reviewing data and expert conclusions, and making court appearances and attending hearings, and declares that the District Attorney of Marin has not received any local, State, or federal funding and does not have a fee authority to offset its increased direct and indirect costs related to AB 256.[45]

The County of Marin notes three additional concerns. Like the City and County of San Francisco Office of the District Attorney, Marin expresses concern about the recent passage of AB 1071, but acknowledges that it is "not the current subject of this test

---

[41] Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 4.

[42] Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 5-6 (Declaration of Allison Garbutt Macbeth, Division Chief of the Special Litigation and Post Conviction Division).

[43] Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 2.

[44] Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, page 4.

[45] Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 6-7 (Declaration of Dori Ahana, Chief Deputy District Attorney).

claim."[46] Secondly, it states that, from 2023 forward, it will also have work to perform under Penal Code section 745(j) subdivisions (2), (4), and (5),[47] despite that the Test Claim Decision addresses only section 745(j)(3).[48] Lastly, Marin argues that "the test claim should not be limited to claims made by 'indigent habeas corpus petitioners' only; it should apply to petitioners and claimants who make a motion or file a petition under subdivision (j)(3) of Section 745."[49]

The County of Sacramento Office of the District Attorney seeks reimbursement for the following as "reasonably necessary activities" to the state-mandated program:

- Discovery
- Litigation of substantive claims
- One-time and ongoing expert costs[50]

The County of Sacramento outlines the legal responsibilities in responding to RJA petitions as discovery, litigation of substantive claims, and one-time and ongoing expert costs, which includes having retained "the services of a data analytics firm to engage in large-scale data retrieval, verification, and empirical analysis to evaluate whether similarly situated individuals receive similar charging decisions, convictions, and sentences."[51] Also, Sacramento has not received any local, state, or federal funding and does not have a fee authority to offset its increased direct and indirect costs for work related to AB 256.[52]

Like the City and County of San Francisco Office of the District Attorney and County of Marin, Sacramento expresses concern about the recent passage of AB 1071, stating it

[46] Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, page 2.

[47] Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 1-2.

[48] Exhibit A, Test Claim Decision, page 4.

[49] Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 2-3.

[50] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 3-4.

[51] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 6 (Declaration of Michael Blazina, Assistant District Attorney).

[52] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 6 (Declaration of Michael Blazina, Assistant District Attorney).

"will further expand the Sacramento County District Attorney's Office's duties under the RJA starting on January 1, 2026."[53]

The County of Sacramento adds that more discovery is required under the RJA than under previous statutes. Prior to the RJA and the test claim statute, "claims for post-conviction discovery were controlled by Penal Code section 1054.9."[54] And "[s]imilarly, requests for pre-trial discovery were controlled by Penal Code section 1054 *et. seq.*"[55]

Like the County of Marin, Sacramento also states that, from 2023 forward, it will also have work to perform under Penal Code section 745(j) subdivisions (2), (4), and (5),[56] despite that the Test Claim Decision addresses only section 745(j)(3).[57]

The County of Stanislaus Office of the District Attorney seeks reimbursement identical to the County of Marin for the following as "reasonably necessary activities" to the state-mandated program:

> 1) discovery under the RJA [Racial Justice Act], 2) review of the record and case files, 3) expert consultation and analysis, 4) preparation of briefs and legal argument including a review of data and expert conclusions, and 5) court appearances/hearings.[58]

The County of Stanislaus outlines the legal responsibilities in responding to RJA petitions as responding to discovery under the RJA, reviewing the record and case file, engaging with expert consultation and analysis, preparing briefs and legal argument, including reviewing data and expert conclusions, and making court appearances and attending hearings, and declares that the District Attorney of County of Stanislaus has not received any local, state, or federal funding and does not have a fee authority to offset its increased direct and indirect costs related to AB 256.[59]

---

[53] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 4.

[54] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 1.

[55] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 2.

[56] Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, page 4.

[57] Exhibit A, Test Claim Decision, page 4.

[58] Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 2-3.

[59] Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 4-5 (Declaration of Mark L. Zahner, Assistant District Attorney).

IV. Discussion

Consistent with the Test Claim Decision, and in consideration of comments as analyzed below, the Parameters and Guidelines state the following:

A. Eligible Claimants (Section II. of the Parameters and Guidelines)

Any county, or city and county subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes, and that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on December 19, 2024, establishing eligibility for reimbursement for the 2023-2024 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2023.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

According to Government Code section 17557(a) and section 1183.7 of the Commission's regulations, the Parameters and Guidelines must identify the activities mandated by the state and "may include proposed reimbursable activities that are reasonably necessary for the performance of the state-mandated program." As the Commission's regulation states:

> (d) Reimbursable Activities. A description of the specific costs and types of costs that are reimbursable, including one-time costs and on-going costs, and reasonably necessary activities required to comply with the mandate. "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence in accordance with section 1187.5 of these regulations.[60]

In accordance with the Government Code and the Commission's regulations, any proposed reasonably necessary activity must be supported by substantial evidence in the record explaining why the activity is necessary to perform the state-mandate.[61]

---

[60] California Code of Regulations, title 2, section 1183.7(d).

[61] Government Code sections 17557(a), 17559; California Code of Regulations, title 2, sections 1183.7(d), 1187.5.

Reimbursement is not required for activities that go beyond the scope of the approved state-mandated program.

Section IV. of the Parameters and Guidelines identifies the reimbursable state-mandated activity approved by the Commission as follows:

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

Several counties request additional reimbursement for "reasonably necessary" activities for both the public defender and district attorney offices. As explained below, the majority of these requests go beyond the scope of the mandate and are not eligible for reimbursement. In addition, one request is unnecessary as the costs are already provided for in the Parameters and Guidelines.

1. **Costs Incurred by the Public Defender's Office to Request Court Transcripts or CDCR Records are Reimbursable as Direct Costs, but Costs Incurred for Public Defender Activities Performed Prior to or Irrespective of the Appointment by the Court Go Beyond the Scope of the Mandate and are Not Eligible for Reimbursement.**

The County of Santa Clara requests adding reimbursement for the following as "reasonably necessary activities" performed by public defenders:

> "(1) the costs associated with investigating the Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel; and (2) the costs of requesting court transcripts, as well as CDCR records."[62]

Santa Clara's second request is already provided for in the Parameters and Guidelines and therefore need not be further addressed as a "reasonably necessary activity." Section V.A.1-3 reimburses the direct costs of salaries and benefits, materials and supplies, and contracted services to represent indigent habeas corpus petitioners on their RJA petition.[63] The activity of requesting transcripts and records is an employee activity paid through salary and benefits. The costs of the court transcripts and CDCR records themselves are likewise already provided for as material costs and contract payments.

[62] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 5.

[63] Exhibit B, Draft Expedited Parameters and Guidelines, page 7.

Santa Clara's first request, however, is not eligible for reimbursement because it exceeds the scope of the mandate by requesting reimbursement for expenses incurred by public defenders *before* the state mandate begins. Santa Clara's request for reimbursement "prior to, and irrespective of, official appointment as habeas counsel,"[64] plainly exceeds the state-mandated program. Pursuant to Penal Code section 1473(f), as amended by the test claim statute, the state mandate is to provide counsel to the indigent habeas corpus petitioners "when appointed by the court."[65] This appointment specifically occurs after the inmate files a petition for writ of habeas corpus (including a statement that they cannot afford counsel) and after the judge finds that the petition has alleged facts that would establish a violation or the State Public Defender requests that counsel be appointed.[66]

Santa Clara argues that public defenders have an ethical obligation if they "become aware of a potential Racial Justice Act claim — for example, through their prior representation of a client at trial or their knowledge of bias in local policing, prosecution, and sentencing practices — [and] must either advise their client of the course to follow to obtain relief or take other appropriate action."[67] Santa Clara cites to this language from the court:

> As discussed in the body of this opinion, noncapital appellate counsel in this state who are aware of a basis for collateral relief should not await the outcome of the appeal to determine if grounds for collateral relief exist. While they have no obligation to conduct an investigation to discover if facts outside the record on appeal would support a petition for habeas corpus or other challenge to the judgment, if they learn of such facts in the course of their representation they have an ethical obligation to advise their client of the course to follow to obtain relief, or to take other appropriate action.[68]

However, while the actions described by the county may stem from an attorney's existing obligation as counsel for a criminal defendant, those actions go beyond the scope of the mandate. As the Test Claim Decision states, there is no pre-existing right to post-conviction counsel under federal or state law.[69] The state-mandated right to

---

[64] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 5.

[65] Exhibit A, Test Claim Decision, page 41.

[66] Penal Code section 1473(f) (later renumbered as 1473(e)).

[67] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 3.

[68] Exhibit D, County of Santa Clara's Comments on the Draft Expedited Parameters and Guidelines, page 3; *In re Clark* (1993) 5 Cal.4th 750, 784, footnote 20.

[69] Exhibit A, Test Claim Decision, pages 30-31.

counsel exists here *only* under the terms of the test claim statute, and the mandate begins when the court appoints counsel.[70]

Santa Clara also points to a summarized statement of California law that a habeas petition's filing date is "measured from the time the petitioner *or counsel* knew, or reasonably should have known, of the information," but the cases underlying this general principle are death penalty cases and long pre-date the test claim statute.[71] When addressing timeliness, the Racial Justice Act refers only to what the petitioner knew, not their counsel.[72] Pursuant to Penal Code section 1473(f) as amended by the 2022 test claim statute, the state-mandated program begins when *new* counsel is appointed and is not affected by lack of communication between public defenders and their past clients.

Finally, the Commission considered a similar argument in *Sex Offenders Registration: Petitions for Termination*, 21-TC-03. There, the Department of Justice created informational literature for sex offenders suggesting they may contact their local public defender regarding the new system available to terminate their registration, but the DOJ's informational literature did not "create a reimbursable state mandate."[73] Similarly here, the fact that public defenders may choose under existing ethical obligations to advise former clients before the appointment of counsel by the court, these costs are not mandated by the test claim statute and are not reasonably necessary to carry out the mandated program. Penal Code sections 1473(f) identifies that the mandate begins when "the court shall appoint counsel if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of Section 745 or the State Public Defender requests counsel be appointed." Actions of the public defender before the appointment of counsel go beyond the scope of the mandate and do not trigger the right to reimbursement.

Accordingly, Santa Clara's second request for "the costs associated with investigating the Racial Justice Act claim and preparing the petition prior to, and irrespective of, official appointment as habeas counsel" go beyond the scope of the mandate are not eligible for reimbursement.

---

[70] *Bemore v. Superior Court* (2025) 108 Cal.App.5th 1125, 1146 ("Although there is no state or federal constitutional right to counsel to assist with a collateral attack on a criminal judgment, California confers a statutory right to counsel in postconviction proceedings under some circumstances."); Penal Code section 1473(f), as amended by Statutes 2022, chapter 739 (later renumbered as 1473(e)).

[71] *Walker v. Martin* (2011) 562 U.S. 307, 312, emphasis added.

[72] Penal Code sections 1473(e) (referring to evidence "that could not have been previously known by the petitioner") and 745(c).

[73] Commission on State Mandates, Test Claim Decision on *Sex Offenders Registration: Petitions for Termination*, 21-TC-03, adopted October 27, 2023, https://csm.ca.gov/decisions/21-TC-03-102723.pdf (accessed on October 23, 2025), page 31.

2. District Attorney Activities Responding to RJA Petitions Go Beyond the Scope of the Mandate and are Not Eligible for Reimbursement.

Six district attorney offices request reimbursement for activities performed in response to an RJA petition, including responding to discovery, on the grounds that they are reasonably necessary to comply with the state-mandated program.[74]

The Commission finds that activities performed by the district attorney offices go beyond the scope of the mandate imposed on the public defender by Penal Code sections 1473(f) and745(j)(3), as amended by the 2022 test claim statute and are, therefore, not eligible for reimbursement.

As discussed above, "reasonably necessary activities" must be necessary for the performance *of the state-mandated program*, and any activity required by statutes, regulations, and other executive orders that were not pled in the Test Claim may only be used if the state-mandated program were rendered impossible without them.[75] Here, the district attorneys' RJA work is not a reasonably necessary activity to comply with the state-mandated program because the state-mandated program is limited to the mandated activities performed by the public defender.

The state-mandated program in this case is limited to counties providing public defender services pursuant to Penal Code sections 1473(f), which declares, in part, that "the court shall appoint counsel if the petitioner cannot afford counsel and either the petition alleges facts that would establish a violation of subdivision (a) of Section 745 or the State Public Defender requests counsel be appointed" and 745(j)(3), which declares, in part, that the right to bring an RJA petition exists "regardless of when the judgment or disposition became final", as amended by the 2022 test claim statute. These code sections do not require the district attorney to provide any services as respondents to an RJA petition or to defend the actions alleged in the RJA petition. Rather, the district attorney has general prosecutorial discretion bestowed and controlled by existing state law.[76] "The prosecutor has the responsibility to decide in the public interest whether to

---

[74] Exhibit E, County of Contra Costa Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-13; Exhibit F, County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-4; Exhibit G, City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit H, County of Marin's Comments on the Draft Expedited Parameters and Guidelines, pages 1-17; Exhibit I, County of Sacramento Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-7; Exhibit J, County of Stanislaus Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines, pages 1-6.

[75] California Code of Regulations, title 2, section 1183.7(d).

[76] *Miller v. Superior Court* (2002) 101 Cal.App.4th 728, 745 ("The prosecutor ordinarily has sole discretion to determine whom to charge, what charges to file and pursue, and what punishment to seek."); California Constitution, article V, section 13 (State Attorney General supervises "every district attorney."); Government Code section 100(b);

seek, oppose, accept, or challenge judicial actions and rulings. These decisions, too, go beyond safety and redress for an individual victim;…."[77]

In contrast, an example of the district attorneys being subject to a state-mandated program is found in *Sexually Violent Predators*, CSM-4509.[78] Where state law requires civil commitment proceedings following completion of a sentence for a sexually violent crime and imposes a legal duty on the county to handle those proceedings: "[t]he petition [for civil commitment] *shall* be filed, and the proceedings *shall* be handled, by either the district attorney or the county counsel of that county."[79] But district attorneys are not subject to any such state-mandated direction here, so their work in response to RJA petitions remains under their prosecutorial discretion to respond to the petition and in response to any court orders rather than a mandate from the state. Appropriations required to comply with mandates of the courts, "which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly" are not subject to the local government appropriations limit in article XIII B[80] and, are therefore, not entitled to reimbursement under article XIII B, section 6.[81]

The Test Claim Decision accordingly addressed the state-mandated program on counties to provide public defender services *only*.[82] "The proposed parameters and guidelines may include proposed reimbursable activities that are reasonably necessary

---

Government Code section 26500 ("The district attorney is the public prosecutor, except as otherwise provided by law. The public prosecutor shall attend the courts, and within his or her discretion shall initiate and conduct on behalf of the people all prosecutions for public offenses."): *Dix v. Superior Court* (1991) 53 Cal.3d 442, 452 (public interest standing does not prevail "over the public prosecutor's exclusive discretion in the conduct of criminal cases").

[77] *Dix v. Superior Court* (1991) 53 Cal. 3d 442, 452.

[78] Commission on State Mandates, Test Claim CSM-4509, adopted June 25, 1998, https://csm.ca.gov/decisions/doc96.pdf (accessed on October 24, 2025), pages 2-3.

[79] Welfare and Institutions Code section 6601(i), emphasis added; see generally Welfare and Institution Code sections 6601-6608.

[80] California Constitution, article XIII B, section 9(b).

[81] Courts have recognized that reimbursement under article XIII B, section 6 is not required when the expenditure of local costs is excluded from the constitutional spending limit because those costs are not shifted *by the state*. *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 70-71; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1581; *County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4th 898, 907; see also, *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986-987.

[82] Exhibit A, Test Claim Decision, page 19.

for the performance *of the state-mandated program*."[83] The request for reimbursement of district attorney activities is therefore beyond the scope of the state-mandated program.

Finally, any concerns expressed by the counties over AB 1071 (2025) are not relevant to these Parameters and Guidelines since the mandate is limited to Penal Code sections 745(j)(3) and 1473(f), as amended by the 2022 test claim statute.

D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct and indirect costs that are eligible for reimbursement and includes the standard boilerplate language.

E. Offsetting Revenues and Reimbursements (Section VII. Offsetting Revenues and Reimbursements)

Section VII. addresses offsetting revenues and contains the following boilerplate language:

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

F. The Remaining Sections of the Parameters and Guidelines

Section VI. Record Retention; Section VIII. State Controller's Claiming Instructions; Section IX. Remedies Before the Commission; and Section X. Legal and Factual Basis for the Parameters and Guidelines contain standard boilerplate language.

V. Conclusion

Based on the foregoing, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines.

PARAMETERS AND GUIDELINES[84]

Penal Code Sections 745(j)(3) and 1473(f), as Amended by Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256), Effective January 1, 2023

Criminal Procedure: Discrimination

---

[83] Government Code section 17557(a), emphasis added.

[84] Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address new state-mandated activities and costs resulting from Penal Code sections 745(j)(3) and 1473(f), as amended by Statutes 2022, chapter 739, also known as the Racial Justice for All Act, effective January 1, 2023.

On September 26, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim legislation imposes a reimbursable state-mandated program upon counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.[85]

II. ELIGIBLE CLAIMANTS

Any county, or city and county subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes, and that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on December 19, 2024, establishing eligibility for reimbursement for the 2023-2024 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2023.

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

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

[85] Exhibit A, Test Claim Decision, page 41.

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

IV. REIMBURSABLE ACTIVITIES

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

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

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

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets

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

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time

according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include 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 in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using the federal de minimis indirect cost rate percentage of direct labor identified in the Office of Management and Budget Circular, at Code of Federal Regulations, title 2, section 200.414(f), excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds the de minimis rate.[86]

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). 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 2 CFR, Chapter I and Chapter II, Part 200 et al.) 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 that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) 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

[86] Effective October 1, 2024, the federal de minimis rate was raised from 10 percent to 15 percent. (Code of Federal Regulations, title 2, § 200.414(f) (89 FR 30046, 30092).)

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 of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter[87] is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for

[87] This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

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(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On November 25, 2025, I served the:

- **Current Mailing List dated November 25, 2025**
- **Draft Proposed Decision and Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued November 25, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 25, 2025 at Sacramento, California.

Jill Magee

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/25/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Michael Blazina, Assistant District Attorney, *County of Sacramento*
Office of the District Attorney, 901 G Street, Sacramento, CA 95814
Phone: (916) 874-5294
BlazinaM@SacDA.org

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Ali Chemkhi, Senior Supervising Accountant/Auditor, *County of San Bernardino*
Office of Auditor-Controller, 268 West Hospitality Lane, Fourth Floor, San Bernardino, CA 92415-0018
Phone: (909) 382-7035
ali.chemkhi@sbcountyatc.gov

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533
Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *County of Solano*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Tara Fonseca, Deputy County Counsel, *County of Santa Clara*
Office of the County Counsel, 70 West Hedding Street, East Wing, 9th Floor, San Jose, CA 95110-1770
Phone: (408) 299-5900
tara.fonseca@cco.sccgov.org

Allison Garbutt Macbeth, Division Chief of Special Litigation and Post Conviction, *City and County of San Francisco*
Office of the District Attorney, 350 Rhode Island Street, North Building, Suite 400 N, San Francisco, CA 94103
Phone: (628) 652-4000
Allison.macbeth@sfgov.org

Justin Garrett, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 327-7500
jgarrett@counties.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Danielle Harris, Managing Attorney, *San Francisco Public Defender*
The Freedom Project, 555 7th Street, San Francisco, CA 94103
Phone: (415) 596-9970
danielle.harris@sfgov.org

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Brooke Jenkins, District Attorney, *City and County of San Francisco*
350 Rhode Island Street, North Building, Suite 400N, San Francisco, CA 94103
Phone: (628) 652-4000
districtattorney@sfgov.org

Damon Jenkins, Senior Deputy Public Defender Certified Criminal Law Specialist, *County of Ventura*
800 South Victoria Avenue, Room #207, Ventura, CA 93009
Phone: (805) 654-2201
damon.jenkins@ventura.org

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
AJoseph@sco.ca.gov

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266

Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Brian Lambert, Deputy County Counsel, *County of Marin*
Office of the County Counsel, 3501 Civic Center Drive, Suite 275, San Rafael, CA 94903
Phone: (415) 473-6117
Brian.Lambert@marincounty.gov

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

Ellen McDonnell, Public Defender, *County of Contra Costa*
Office of the Public Defender, 800 Ferry Street, Martinez, CA 94553
Phone: (925) 608-9600
Ellen.McDonnell@pd.cccounty.us

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

Rajiv Narayan, Deputy County Counsel, *County of Santa Clara*
Office of the County Counsel, 70 West Hedding Street, East Wing, 9th Floor, San Jose, CA 95110
Phone: (669) 786-4287
rajiv.narayan@cco.sccgov.org

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

Thomas O'Keefe, Assistant Public Defender, *County of Monterey*
Office of the Public Defender, 168 West Alisal, Salinas, CA 93933
Phone: (831) 755-5058
OKeefeTP@countyofmonterey.gov

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123

Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

Andrea Tavenier, Chief Deputy District Attorney, *County of Sonoma*
Office of the District Attorney, 600 Administration Drive, Room 212-J, Hall of Justice, Santa Rosa, CA 95403
Phone: (707) 565-2311
Andrea.Tavenier@sonomacounty.gov

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012
Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, Forth Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

Ryan Wagner, Senior Deputy District Attorney, *County of Contra Costa*
Office of the District Attorney, 900 Ward Street, Fourth Floor, Martinez, CA 94553
Phone: (925) 957-8604
DAOffice@contracostada.org

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Brendon Woods, Public Defender, *County of Alameda*
Office of the Public Defender, 1401 Lakeside Drive, Suite 400, 1401 Lakeside Drive, Suite 400, Oakland, CA 94612
Phone: (510) 272-6621
desiree.sellati@acgov.org

Steven Woodside, County Counsel, *County of Marin*
3501 Civic Center Drive, Room 275, San Rafael, CA 94903
Phone: (415) 473-6117
swoodside@marincounty.org

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

Belle Yan, Assistant Professor and Supervising Attorney, *University of San Francisco*
Racial Justice Clinic, 2130 Fulton Street, Kendrick Hall 211, San Francisco, CA 94117-1080
Phone: (415) 422-6752
byan6@usfca.edu

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov

Commission on
State Mandates
Filed Date
12/15/2025

MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

Exhibit L

December 15, 2025

Juliana F. Gmur, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

SUBJECT: Draft Proposed Decision and Parameters and Guidelines, Schedule for Comments, and Notice of Hearing

Criminal Procedure: Discrimination, 24-TC-02
Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023
County of Los Angeles, Claimant

Dear Juliana F. Gmur:

The State Controller's Office reviewed the Draft Proposed Decision and Parameters and Guidelines for Criminal Procedure: Discrimination and we do not recommend any changes.

If you have any questions, please contact Lucas Leung, Local Reimbursements Section, Local Government Programs and Services Division, by email at LLeung@sco.ca.gov, or by telephone at 916-720-3009.

Sincerely,

Darryl Mar

Darryl Mar
Manager, Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On December 17, 2025, I served the:

- **Current Mailing List dated December 11, 2025**
- **Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines filed December 15, 2025**

  Criminal Procedure: Discrimination, 24-TC-02
  Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023
  County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 17, 2025 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 12/11/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Adaoha Agu, *County of San Diego Auditor & Controller Department*
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123
Phone: (858) 694-2129
Adaoha.Agu@sdcounty.ca.gov

Scott Allen, Director of Operations, *Orange County District Attorney's Office*
300 North Flower Street, Santa Ana, CA 92703
Phone: (949) 898-0417
scott.allen@ocdapa.org

Rachelle Anema, Assistant Auditor-Controller, *County of Los Angeles*
Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8321
RANEMA@auditor.lacounty.gov

Lili Apgar, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-0254
lapgar@sco.ca.gov

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

Aaron Avery, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
Aarona@csda.net

David Bass, Vice Mayor, *CIty of Rocklin*
3970 Rocklin Road, Rocklin, CA 95677
Phone: (916) 663-8504
David.Bass@rocklin.ca.us

Ginni Bella Navarre, Deputy Legislative Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8342
Ginni.Bella@lao.ca.gov

Michael Blazina, Assistant District Attorney, *County of Sacramento*
Office of the District Attorney, 901 G Street, Sacramento, CA 95814
Phone: (916) 874-5294
BlazinaM@SacDA.org

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

Guy Burdick, Consultant, *MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

Rica Mae Cabigas, Chief Accountant, *Auditor-Controller*
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012
Phone: (213) 974-8309
rcabigas@auditor.lacounty.gov

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Julissa Ceja Cardenas, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jcejacardenas@counties.org

Kate Chatfield, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
katechatfield@cpda.org

Ali Chemkhi, Senior Supervising Accountant/Auditor, *County of San Bernardino*
Office of Auditor-Controller, 268 West Hospitality Lane, Fourth Floor, San Bernardino, CA 92415-0018
Phone: (909) 382-7035
ali.chemkhi@sbcountyatc.gov

Annette Chinn, *Cost Recovery Systems, Inc.*
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Adam Cripps, Interim Finance Manager, *Town of Apple Valley*
14955 Dale Evans Parkway, Apple Valley, CA 92307
Phone: (760) 240-7000
acripps@applevalley.org

Elena D'Agustino, Public Defender, *County of Solano*
Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, CA 94533
Phone: (707) 784-6700
edagustino@solanocounty.gov

Thomas Deak, Senior Deputy, *County of San Diego*
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101
Phone: (619) 531-4810
Thomas.Deak@sdcounty.ca.gov

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

Kevin Fisher, Assistant City Attorney, *City of San Jose*
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113
Phone: (408) 535-1987
kevin.fisher@sanjoseca.gov

Tim Flanagan, Office Coordinator, *County of Solano*
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533
Phone: (707) 784-3359
Elections@solanocounty.com

Tara Fonseca, Deputy County Counsel, *County of Santa Clara*
Office of the County Counsel, 70 West Hedding Street, East Wing, 9th Floor, San Jose, CA 95110-1770
Phone: (408) 299-5900
tara.fonseca@cco.sccgov.org

Allison Garbutt Macbeth, Division Chief of Special Litigation and Post Conviction, *City and County of San Francisco*
Office of the District Attorney, 350 Rhode Island Street, North Building, Suite 400 N, San Francisco, CA 94103
Phone: (628) 652-4000
Allison.macbeth@sfgov.org

Juliana Gmur, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.ca.gov

Danielle Harris, Managing Attorney, *San Francisco Public Defender*
The Freedom Project, 555 7th Street, San Francisco, CA 94103
Phone: (415) 596-9970
danielle.harris@sfgov.org

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Ken Howell, Senior Management Auditor, *State Controller's Office*
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816
Phone: (916) 323-2368
KHowell@sco.ca.gov

Damon Jenkins, Senior Deputy Public Defender Certified Criminal Law Specialist, *County of Ventura*
800 South Victoria Avenue, Room #207, Ventura, CA 93009
Phone: (805) 654-2201
damon.jenkins@ventura.org

Brooke Jenkins, District Attorney, *City and County of San Francisco*
350 Rhode Island Street, North Building, Suite 400N, San Francisco, CA 94103
Phone: (628) 652-4000
districtattorney@sfgov.org

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
AJoseph@sco.ca.gov

Emma Jungwirth, Senior Legislative Advocate, *California State Association of Counties (CSAC)*
1100 K Street, Ste 101, Sacramento, CA 95814
Phone: (916) 650-8115
ejungwirth@counties.org

Anne Kato, Acting Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-9891
akato@sco.ca.gov

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

Joanne Kessler, Fiscal Specialist, *City of Newport Beach*
Revenue Division, 100 Civic Center Drive , Newport Beach, CA 90266

Phone: (949) 644-3199
jkessler@newportbeachca.gov

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

Brian Lambert, Deputy County Counsel, *County of Marin*
Office of the County Counsel, 3501 Civic Center Drive, Suite 275, San Rafael, CA 94903
Phone: (415) 473-6117
Brian.Lambert@marincounty.gov

Government Law Intake, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
governmentlawintake@doj.ca.gov

Eric Lawyer, Legislative Advocate, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 650-8112
elawyer@counties.org

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

Fernando Lemus, Principal Accountant - Auditor, *County of Los Angeles*
Claimant Representative
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-0324
flemus@auditor.lacounty.gov

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

Kenneth Louie, Chief Counsel , *Department of Finance*
1021 O. Street, Suite 3110, Sacramento, CA 95814
Phone: (916) 322-0971
Kenny.Louie@dof.ca.gov

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0766
ELuc@sco.ca.gov

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

Darryl Mar, Manager, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

Graciela Martinez, President, *California Public Defenders Association*
10324 Placer Lane, Sacramento, CA 95827
Phone: (916) 362-1686
gmartinez@pubdef.lacounty.gov

Ellen McDonnell, Public Defender, *County of Contra Costa*
Office of the Public Defender, 800 Ferry Street, Martinez, CA 94553
Phone: (925) 608-9600
Ellen.McDonnell@pd.cccounty.us

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

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-8918
Marilyn.Munoz@dof.ca.gov

Rajiv Narayan, Deputy County Counsel, *County of Santa Clara*
Office of the County Counsel, 70 West Hedding Street, East Wing, 9th Floor, San Jose, CA 95110
Phone: (669) 786-4287
rajiv.narayan@cco.sccgov.org

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

Thomas O'Keefe, Assistant Public Defender, *County of Monterey*
Office of the Public Defender, 168 West Alisal, Salinas, CA 93933
Phone: (831) 755-5058
OKeefeTP@countyofmonterey.gov

Patricia Pacot, Accountant Auditor I, *County of Colusa*
Office of Auditor-Controller, 546 Jay Street, Suite #202 , Colusa, CA 95932
Phone: (530) 458-0424
ppacot@countyofcolusa.org

Arthur Palkowitz, *Law Offices of Arthur M. Palkowitz*
12807 Calle de la Siena, San Diego, CA 92130
Phone: (858) 259-1055
law@artpalk.onmicrosoft.com

Kirsten Pangilinan, Specialist, *State Controller's Office*
Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 322-2446
KPangilinan@sco.ca.gov

Trevor Power, Accounting Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach , CA 92660
Phone: (949) 644-3085
tpower@newportbeachca.gov

Jonathan Quan, Associate Accountant, *County of San Diego*
Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123

Phone: 6198768518
Jonathan.Quan@sdcounty.ca.gov

Roberta Raper, Director of Finance, *City of West Sacramento*
1110 West Capitol Ave, West Sacramento, CA 95691
Phone: (916) 617-4509
robertar@cityofwestsacramento.org

Jonathon Raven, Executive Assistant, *California District Attorneys Association (CDAA)*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
jraven@cdaa.org

Jessica Sankus, Senior Legislative Analyst, *California State Association of Counties (CSAC)*
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
jsankus@counties.org

Cindy Sconce, Director, *Government Consulting Partners*
5016 Brower Court, Granite Bay, CA 95746
Phone: (916) 276-8807
cindysconcegcp@gmail.com

Carla Shelton, Senior Legal Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Paul Steenhausen, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, , Sacramento, CA 95814
Phone: (916) 319-8303
Paul.Steenhausen@lao.ca.gov

Kim Stone, Legislation, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
kim@stoneadvocacy.com

Andrea Tavenier, Chief Deputy District Attorney, *County of Sonoma*
Office of the District Attorney, 600 Administration Drive, Room 212-J, Hall of Justice, Santa Rosa, CA 95403
Phone: (707) 565-2311
Andrea.Tavenier@sonomacounty.gov

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

Gregory Totten, Chief Executive Officer, *California District Attorneys Association*
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833
Phone: (916) 443-2017
gtotten@cdaa.org

Jessica Uzarski, Consultant, *Senate Budget and Fiscal Review Committee*
1020 N Street, Room 502, Sacramento, CA 95814
Phone: (916) 651-4103
Jessica.Uzarski@sen.ca.gov

Oscar Valdez, Auditor-Controller, *County of Los Angeles*
Claimant Contact
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012
Phone: (213) 974-8302
ovaldez@auditor.lacounty.gov

Alejandra Villalobos, Management Services Manager, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, Forth Floor, San Bernardino, CA 92415
Phone: (909) 382-3191
alejandra.villalobos@sbcountyatc.gov

Ryan Wagner, Senior Deputy District Attorney, *County of Contra Costa*
Office of the District Attorney, 900 Ward Street, Fourth Floor, Martinez, CA 94553
Phone: (925) 957-8604
DAOffice@contracostada.org

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

Adam Whelen, Director of Public Works, *City of Anderson*
1887 Howard St., Anderson, CA 96007
Phone: (530) 378-6640
awhelen@ci.anderson.ca.us

R. Matthew Wise, Supervising Deputy Attorney General, *Department of Justice*
Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6046
Matthew.Wise@doj.ca.gov

Brendon Woods, Public Defender, *County of Alameda*
Office of the Public Defender, 1401 Lakeside Drive, Suite 400, 1401 Lakeside Drive, Suite 400, Oakland, CA 94612
Phone: (510) 272-6621
desiree.sellati@acgov.org

Steven Woodside, County Counsel, *County of Marin*
3501 Civic Center Drive, Room 275, San Rafael, CA 94903
Phone: (415) 473-6117
swoodside@marincounty.org

Arthur Wylene, General Counsel, *Rural County Representatives of California (RCRC)*
1215 K Street, Suite 1650, Sacramento, CA 95814
Phone: (916) 447-4806
awylene@rcrcnet.org

Elisa Wynne, Staff Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
elisa.wynne@sen.ca.gov

Belle Yan, Assistant Professor and Supervising Attorney, *University of San Francisco*
Racial Justice Clinic, 2130 Fulton Street, Kendrick Hall 211, San Francisco, CA 94117-1080
Phone: (415) 422-6752
byan6@usfca.edu

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

Siew-Chin Yeong, Director of Public Works, *City of Pleasonton*
3333 Busch Road, Pleasonton, CA 94566
Phone: (925) 931-5506
syeong@cityofpleasantonca.gov

Traci Young, IS Project Director, *City and County of San Francisco*
San Francisco Public Utilities Commission (SFPUC), 525 Golden Gate Ave, San Francisco, CA 94102
Phone: (415) 653-2583
tmyoung@sfwater.org

Morgan Zamora, Prison Advocacy Coordinator, *Ella Baker Center for Human Rights*
1419 34th Avenue, Suite 202, Oakland, CA 94601
Phone: (510) 428-3940
morgan@ellabakercenter.org

Helmholst Zinser-Watkins, Associate Governmental Program Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-7876
HZinser-watkins@sco.ca.gov