



September 7, 2022

Captain Jeffrey Jordon
City of San Diego
San Diego Police Department
1401 Broadway
San Diego, CA 92101

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

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

Re: Proposed Statewide Cost Estimate

Sexual Assault Evidence Kits: Testing, 20-TC-01

Penal Code Section 680 as Amended by Statutes 2019, Chapter 588 (SB 22)

Dear Captain Jordon and Ms. Sidarous:

The Proposed Statewide Cost Estimate for the above-captioned matter is enclosed for your review.

Hearing

This matter is set for hearing on **Friday, September 23, 2022**, at 10:00 a.m., via Zoom.

Statutes 2022, chapter 48 (Sec. 20 and 80), signed by Governor Newsom on June 30, 2022, amended the Bagley-Keene Open Meeting Act to extend until July 1, 2023, the authority to hold public meetings through teleconferencing and to make public meetings accessible electronically to all members of the public seeking to observe and to address the state body in order to protect the health and safety of civil servants and the public. The statute further suspends and no longer requires until July 1, 2023, the physical presence of members or other personnel of the state body or the public as a condition of participation in or quorum for a public meeting; the identification of each teleconference location from which a member will be participating; the posting of the notice and agenda at each teleconference location; and the ability of the public to address the state body at each teleconference location

The Commission on State Mandates (Commission) is committed to ensuring that its public meetings are accessible to the public and that the public has the opportunity to observe the meeting and to participate by providing written and verbal comment on Commission matters.

If you want to speak during the hearing, you must use the "Raise Hand" feature in order for our moderators to know you need to be unmuted. If you are participating by phone, you may dial *9 to use the "Raise Hand" feature.

There are two options for joining the meeting via Zoom:

1. Through the link below you can listen and view through your desktop, laptop, tablet, or smart phone. This will allow you to view documents being shared as well. **(You are encouraged to use this option.)**

<https://csm-ca.gov.zoom.us/j/87290282412?pwd=M0cvUmJFSFRxRHJ6NmRNRfY0QTYydz09>

Passcode: 136119

3. Through your landline, smart mobile, or non-smart mobile phone, either number works. You will be able to listen to the proceedings but will not be able to view the meeting or any documents being shared.

+1 216 706 7075 US Toll

+1 866 390 1828 US Toll-free

Conference code: 155007

Please don't hesitate to reach out to us for help with technical problems at csminfo@csm.ca.gov or 916 323-3562.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness plan to testify and please specify the names and email addresses of the people who will be speaking for inclusion on the witness list so that detailed instructions regarding how to participate as a party in this meeting on Zoom can be provided to them.

This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on consent and wish to testify at the hearing or have a representative testify on your behalf, and if other witnesses will appear.

In that case, please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness plan to testify and please specify the names and email addresses of the people who will be speaking for inclusion on the witness list.

If you plan to file any written document for Commission member review, please note that Commission staff will include written comments filed at least 15 days in advance of the hearing in the Commissioners' hearing binders. Additionally, staff will transmit written comments filed between 15 and five days prior to a meeting to the Commission members, if possible. However, comments filed less than five days prior to a meeting or submitted at the meeting will not be included in the Commissioners' hearing binders. Due to the meeting being remote, in lieu of the commenter providing 12 paper copies of the comments at the meeting for such late filings (Cal. Code Regs., tit. 2, § 1181.10(b)(1)), please file the PDF document or section of the PDF document via the Commission's dropbox at <https://csm.ca.gov/dropbox.php> prior to the hearing.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Special Accommodations

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

Sincerely,



Heather Halsey
Executive Director

ITEM 6
PROPOSED STATEWIDE COST ESTIMATE

\$11,218,184 - \$22,758,309

Initial Claim Period

(Second Half Fiscal Year 2019-2020 and Fiscal Year 2020-2021)

**\$7,513,209- \$10,763,822, Plus the Implicit Price Deflator
2021-2022 and Following**

Penal Code Section 680 as Amended by Statutes 2019, Chapter 588 (SB 22)

Sexual Assault Evidence Kits: Testing

20-TC-01

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate by a vote of [vote count will be included in the adopted Statewide Cost Estimate] during a regularly scheduled hearing on September 23, 2022 as follows:

Member	Vote
Lee Adams, County Supervisor	
Jeannie Lee, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Renee Nash, School District Board Member	
Sarah Olsen, Public Member	
Shawn Silva, Representative of the State Controller	
Spencer Walker, Representative of the State Treasurer, Vice Chairperson	

STAFF ANALYSIS

Summary of the Mandate, Eligible Claimants, and Period of Reimbursement

Penal Code section 680, as amended by Statutes 2019, chapter 588 (SB 22), requires city and county law enforcement agencies to perform activities relating to DNA testing of sexual assault forensic evidence within specified time periods.

The Commission adopted the Test Claim Decision on July 23, 2021 and the Decision and Parameters and Guidelines on September 24, 2021, approving reimbursement for any city, county, or city and county that incurs increased costs as a result of this mandate.

The initial reimbursement period is January 1, 2020 through June 30, 2021 (second half of fiscal year 2019-2020 and all of fiscal year 2020-2021). Eligible claimants were required to file initial

claims with the State Controller's Office (Controller) by April 27, 2022. Late initial reimbursement claims may be filed until April 27, 2023, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.¹

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

1. A law enforcement agency in whose jurisdiction a sex offense specified in Penal Code sections 261, 261.5, 262, 286, 287, or 289 or former section 288a occurred shall do one of the following for any sexual assault forensic evidence received by the law enforcement agency on or after January 1, 2016:
 - a. Submit sexual assault forensic evidence to the crime lab within 20 days after booked into evidence; *or*
 - b. Ensure that a rapid turnaround DNA program is in place (with a written agreement between the law enforcement agency, the crime lab, and the medical facility pursuant to Penal Code section 680(c)(5)) to submit sexual assault forensic evidence directly from the medical facility examining the victim to the crime lab within five days. (Penal Code 680(c)(1), Stats. 2019, ch. 588.)
2. For any sexual assault forensic evidence received on or after January 1, 2016, the law enforcement's crime lab shall do one of the following:
 - a. Process sexual assault forensic evidence, creating DNA profiles when able, and upload qualifying DNA profiles into CODIS as soon as practically possible, but no later than 120 days after initial receipt; *or*
 - b. Transmit sexual assault forensic evidence to another crime lab for DNA processing as soon as practically possible, but no later than 30 days after initial receipt. The transmitting crime lab shall upload into CODIS any qualifying DNA profiles from sexual assault forensic evidence as soon as practically possible, but no longer than 30 days after being notified about the presence of DNA and no later than 120 days after the transmitting crime lab initially receives the evidence. (Penal Code 680(c)(2), Stats. 2019, ch. 588.)

The Commission further concluded that the test claim statute does not mandate city and county law enforcement agencies to conduct follow-up investigations on evidence tested pursuant to the test claim statute.² Therefore, such follow-up investigations are excluded from the reimbursable activities.

Offsetting Revenues and Reimbursements

The Parameters and Guidelines specify that 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, service fees collected, federal funds, other state

¹ Government Code section 17561(d)(3).

² Exhibit A, Decision and Parameters and Guidelines, adopted September 24, 2021, pages 5-6.

funds, and other funds that are not the claimant’s proceeds of taxes shall be identified and deducted from this claim. This includes, but is not limited to, the following state and federal grant programs that may be used by a claimant to pay for the mandated activities in this program and which constitute offsetting revenues when used for this purpose:

- Citizens Option for Public Safety Grant (COPS) (state)
- DNA Capacity Enhancement and Backlog Reduction Program (federal)
- DNA Identification Fund (state)
- Sexual Assault Evidence Submission Grant Program (state)³

Offsetting revenues identified in the initial reimbursement claims totaled \$1,022,578.

Statewide Cost Estimate

Staff reviewed 83 unaudited initial reimbursement claims submitted by 49 city and county claimants and compiled by the Controller, and developed the Statewide Cost Estimate based on the assumptions and methodology discussed herein. Table 1 and Table 2, below, summarize the cost estimates for the initial reimbursement period and the year following, respectively.

Table 1. Initial Reimbursement Period Cost Estimate

Activity 1.a. (Submit sexual assault forensic evidence to the crime lab within 20 days after booked into evidence)	\$271,541 - \$2,299,913
Activity 1.b. (Ensure that a rapid turnaround DNA program is in place)	\$0 - \$0
Activity 2.a. (Process sexual assault forensic evidence, creating DNA profiles when able, and upload qualifying DNA profiles into CODIS as soon as practically possible, but no later than 120 days after initial receipt)	\$7,310,867 - \$14,003,080
Activity 2.b. (Transmit sexual assault forensic evidence to another crime lab for DNA processing as soon as practically possible, but no later than 30 days after initial receipt.)	\$694,483 - \$1,384,920
Indirect Costs	\$3,963,871 - \$8,490,198
Offsetting Revenues	(\$1,022,578 - \$2,137,566)
Late Filing Penalty	(\$0 - \$1,282,236)
Total Costs	\$11,218,184 - \$22,758,309

Table 2. Estimated Annual Costs for Fiscal Year 2021-2022 and Following

Direct Costs for All Activities	\$5,517,927- \$7,905,275
Indirect Costs	\$2,648,605 - \$3,794,532
Offsetting Revenues	(\$653,323 - \$935,985)
Total Costs	\$7,513,209- \$10,763,822

³ Exhibit A, Decision and Parameters and Guidelines, adopted September 24, 2021, page 10.

Assumptions

1. The amount claimed for the initial reimbursement period may increase if late or amended claims are filed. Only 49 of 415 eligible claimants (12 percent) filed claims for the initial reimbursement period.⁴ The remaining 366 eligible claimants may still file late claims, and the 49 claimants that timely filed may file amended initial claims for additional costs. Disruptions caused by the COVID-19 pandemic may contribute to a higher number of late or amended claims for the initial reimbursement period.
2. Costs are likely to be higher during the initial years of reimbursement because law enforcement agencies have to process a backlog of existing sexual assault forensic evidence received on or after January 1, 2016. Based on a one-time Department of Justice (DOJ) audit of untested sexual assault evidence kits in the possession of California law enforcement agencies, crime laboratories, medical facilities and others, the known backlog of untested sexual assault evidence kits in 2020 totaled 13,929.⁵ Of the 2,005 untested kits reported in the audit from 2016 or later, 1,995 are subject to the test claim statute.⁶ Assuming all eligible claimants have untested kits at the same average rate as the audit participants, there would be approximately 5,830 untested sexual assault evidence kits subject to the test claim statute at the beginning of the reimbursement period.⁷ While it is assumed that material and labor

⁴ This Statewide Cost Estimate assumes there are 415 eligible claimants. There are 58 counties and 481 cities in California, including one city and county (the City and County of San Francisco). Exhibit C (10), Senate Government and Finance Committee, County Fact Sheet (April 2016), https://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/county_facts_2016.pdf (accessed on August 18, 2022), page 1. All 58 counties have law enforcement agencies (see Cal. Const., art. XI, § 1(b)) and it is assumed, extrapolating from POST data, that approximately 357 of 481 cities either have their own law enforcement agencies or contract with another city or county to provide law enforcement services in their jurisdiction.

⁵ Exhibit C (5), California Department of Justice, Statewide Audit of Untested Sexual Assault Forensic Evidence Kits, 2020 Report to the Legislature, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/ag-rpt-audit-usasfe-kits-2020.pdf> (accessed on April 8, 2022), pages 3, 9. Penal Code section 680.4 (Stats. 2018, ch. 950) required DOJ to conduct the one-time audit. Data was primarily collected between November 6, 2018 and July 1, 2019, but the DOJ continued to accept late submission until the release of the audit report.

⁶ Exhibit C (5), California Department of Justice, Statewide Audit of Untested Sexual Assault Forensic Evidence Kits, 2020 Report to the Legislature, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/ag-rpt-audit-usasfe-kits-2020.pdf> (accessed on April 8, 2022), page 9. 142 of the 149 of the audit participants are eligible claimants (the omitted seven are university police departments and are not eligible claimants) and reported a total of 1,995 untested kits from 2016 or later.

⁷ Exhibit C (5), California Department of Justice, Statewide Audit of Untested Sexual Assault Forensic Evidence Kits, 2020 Report to the Legislature, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/ag-rpt-audit-usasfe-kits-2020.pdf> (accessed on April 8, 2022), pages 14-23.

costs will increase over time, as reflected in the implicit price deflator, once the backlog has been eliminated and sexual assault forensic evidence is timely tested on a flow basis, total costs will likely trend downward, being limited to the number of test kits collected annually, and for some claimants, may not exceed the \$1,000 minimum filing threshold.

3. The average cost to process a sexual assault evidence kit is approximately \$1,000 per kit. According to the National Center for Victims of Crime, DNA processing costs average \$500 to \$1,200 per kit.⁸ The available claims data supports this estimate, with direct costs for DNA processing (Activities 2.a. and 2.b.) averaging \$1,088 per kit. There may also be backlogged crime scene evidence that requires DNA processing, although that number is not tracked at the statewide level.⁹
4. The number of reimbursement claims filed will vary from year to year, depending on the number of sex offenses that occur within each eligible claimant's jurisdiction and whether those crimes are reported and qualifying forensic evidence is collected and processed.
5. Claimants may elect not to seek reimbursement for one or more reimbursable activities. Under the test claim statute, eligible claimants may seek reimbursement for performing each of the two mandated activities in one of two ways. Some eligible claimants may decide not to claim costs for one or more of the mandated activities because the costs imposed may be de minimis. For example, none of the 83 unaudited claims seek reimbursement for ensuring a rapid turnaround program is in place (Activity 1.b.) and only 20 claims (less than 25%) seek reimbursement for both submitting sexual assault forensic evidence to the crime lab (Activity 1.a.) and processing the evidence for DNA, creating DNA profiles, and uploading qualifying DNA profiles into CODIS (Activity 2.a. or 2.b.).

Number of untested sexual assault evidence kits from 2016 or later in the possession of eligible claimants [1,995] / eligible claimants participating in the audit [142] = average of 14 kits per eligible claimant.

Average untested kits per eligible claimant [14] x total eligible claimants [415] =
Potential backlog of untested kits at beginning of initial reimbursement period [5,830].

⁸ Exhibit C (9), National Center for Victims of Crime, Frequently Asked Questions, <https://victimsofcrime.org/frequently-asked-questions/> (accessed on April 8, 2022), Question 6 (estimating the cost to test one kit at \$500-\$1,200); see also Exhibit C (8), End the Backlog, Testing All Rape Kits Provides Returns of Up to 65,000%, <https://www.endthebacklog.org/blog/testing-all-rape-kits-provides-returns-65000> (accessed on April 8, 2022) (estimating the cost at \$500-\$1,500 to test one kit).

⁹ The submission and testing requirements imposed by the test claim statute are not limited to sexual assault evidence kits; they include crime scene evidence as well. If a sexual assault evidence kit is not collected in a case, representative and probative samples of any other types of sexual assault evidence (e.g., the victim's clothing, bedding from the assault scene, etc.) must be sent to the crime lab. Exhibit C (4), California Department of Justice, Sexual Assault Kits and Evidence FAQs, <https://oag.ca.gov/bfs/prop69/faqs-sake> (accessed on February 26, 2021), pages 1-2.

6. Estimated future annual costs will be lower if the claimants receive and apply offsetting revenues. While the Parameters and Guidelines identify several state and federal grant programs as potential offsetting revenue sources, not all claimants receive those funds, nor are those claimants that do required to apply them to this program. Of the 49 initial claimants, only five (10 percent) used offsetting revenues. Additionally, those offsets varied greatly, ranging from less than \$5,000 to more than \$500,000. While known available offsetting revenues for the initial reimbursement period exceed \$194 million, three out of five of those funding sources are grant-based, meaning that there is no guarantee that the claimants will receive or apply those funds in the future.

The majority of known available offsetting revenues come from the Citizens Option for Public Safety Grant (COPS) program (totaling \$170,074,800 for fiscal years 2019-2020 and 2020-2021) and are intended to generally fund front-line law enforcement services at the county and city level, and without a specific requirement that the funds be used for DNA testing of sexual assault forensic evidence.¹⁰ Only, \$7,491,383 awarded in fiscal year 2019-2020; \$8,184,159 in fiscal year 2020-2021; and \$8,510,042 in fiscal year 2021-2022 in U.S. Department of Justice, Bureau of Justice Assistance, Awards for DNA Capacity Enhancement and Backlog Reduction Program; \$8,575,184.39 awarded in calendar year 2019 in state DNA Identification Fund (Proposition 69) revenues; \$2 million in California Department of Justice, Sexual Assault Evidence Submission Grant Program funds awarded in 2020-2021 and 2021-2022 were allocated to county and city law enforcement agencies, as specified. Additionally, the California Department of Justice, Untested Sexual Assault Evidence Grant – Backlog Reduction Program has available \$1.814 million in grant funds for fiscal years 2021-2022 and 2022-2023, specifically for the “California Department of Justice, Untested Sexual Assault Evidence Grant – Backlog Reduction Program.”¹¹ Thus, this Statewide Cost Estimate assumes that all potential eligible claimants will file claims and

¹⁰ Exhibit C (7), California State Controller, Citizens' Option for Public Safety (COPS) Program Funds, Fiscal Year 2019-2020 Year-to-Date Allocation Spreadsheet, https://www.sco.ca.gov/ard_payments_cops_fy1920.html (accessed on June 24, 2022); Fiscal Year 2020-2021 Allocation Letter from the Department of Finance, https://www.sco.ca.gov/Files-ARD-Payments/copsdofletter_2021.pdf (accessed on June 24, 2022).

¹¹ Exhibit C (11), U.S. Department of Justice, Bureau of Justice Assistance, Awards for DNA Capacity Enhancement and Backlog Reduction Program, https://bja.ojp.gov/funding/awards/list?field_award_status_value=All&state=CA&field_funding_type_value=All&fiscal_year=2019+2020+2021&combine_awards=DNA+Capacity+Enhancement&awardee=&city=#kq5n09 (accessed on June 24, 2022); Exhibit C (1), California Department of Justice, Annual Statewide DNA Fund Report, <https://oag.ca.gov/sites/all/files/agweb/pdfs/bfs/2019-dna-fund-report.pdf> (accessed on June 24, 2022), page 2; Exhibit C (2), California Department of Justice, Sexual Assault Evidence Submission Grant Program, <https://oag.ca.gov/saesg> (accessed on June 24, 2022); Exhibit C (6), California Department of Justice, Untested Sexual Assault Evidence Grant – Backlog Reduction Program, <https://oag.ca.gov/usaeg-br> (accessed on June 24, 2022).

identify offsetting revenues at the same rate as that identified in the initial claims, which is eight percent.¹²

7. Actual costs may be lower if the Controller reduces any reimbursement claim for this program following an audit deeming the claim to be excessive or unreasonable, or not eligible for reimbursement.

Methodology

A. Initial Reimbursement Period Cost Estimate:

The low end statewide cost estimate for the initial reimbursement period (second half of fiscal year 2019-2020 and all of fiscal year 2020-2021) is based on 83 unaudited, actual reimbursement claims (35 claims filed for fiscal year 2019-2020 and 48 for fiscal year 2020-2021) totaling **\$11,218,184**. The high end of the estimated potential costs is up to **\$22,758,309** if all eligible claimants file claims for the initial reimbursement period.

Activity 1.a.: Activity 1.a. consists of submitting sexual assault forensic evidence to the crime lab. The low end of the range for Activity 1.a. is costs actually claimed for that activity. The high end assumes that all eligible claimants will file claims for Activity 1.a. and the costs are calculated using the average costs claimed in the initial period of reimbursement and multiplying the average cost by the number of eligible claimants who have not yet filed claims as follows:

Activity 1.a. actual costs claimed [\$271,541] / number of 1.a. filers [49] = average activity 1.a. cost per claimant [\$5,542]

Average activity 1.a. cost per claimant [\$5,542] x number of non-filers [366] = total estimated non-filer activity 1.a. costs [\$2,028,372]

Activity 1.a. actual costs claimed [\$271,541] + estimated non-filer activity 1.a. costs that could be claimed in late claims [\$2,028,372] = Total Potential Activity 1.a. Costs [\$2,299,913]

Activity 1.b.: Activity 1.b. consists of ensuring that a rapid turnaround DNA program is in place so that the sexual assault forensic evidence is submitted directly from the medical examination facility to the crime lab. While some of the initial claims contain supporting documentation showing that a rapid turnaround agreement is in place, none of the initial claims include claimed costs for Activity 1.b., likely because the mandate is to either perform 1.a. *or* 1.b. Therefore, both the low and high ends of the range for Activity 1.b. are \$0.

Activities 2.a. and 2.b.: Activity 2.a. consists of processing sexual assault forensic evidence for DNA, creating DNA profiles, and uploading qualifying DNA profiles into CODIS. Activity 2.b. consists of transmitting the sexual assault forensic evidence to another crime lab for DNA processing and uploading qualifying DNA profiles into CODIS. Both of these activities require the law enforcement agency to pay for the sexual assault forensic evidence to be processed for

¹² The offsetting revenue rate is calculated as follows: Actual Offsetting Revenues [\$1,022,578] / Actual Direct and Indirect Costs [\$12,240,772] = Offsetting Rate (offsetting revenues as a percentage of total costs claimed) [0.08].

DNA, either by the agency itself, or by a contracted public or private crime lab, and to upload qualifying DNA profiles into CODIS.

The low end of the range for Activities 2.a. and 2.b. is costs actually claimed for that activity. The high end assumes that all eligible claimants will file claims for Activities 2.a. and 2.b.

The estimate of the high end of potential Activity 2.a and 2.b. costs for the initial reimbursement period uses the number of kits collected statewide in calendar year 2020 (two-thirds of the initial reimbursement period), as reported in DOJ's SAFE-T database,¹³ the statewide backlog of approximately 5,830 untested kits subject to the test claim statute, and an average processing cost per kit of \$1,000, to result in \$13,957,580 for 2.a. and \$1,380,420 for 2.b., calculated as follows:

1. Number of sexual assault evidence kits collected statewide in calendar year 2020 [6,372] x average cost of processing a sexual assault evidence kit for DNA [\$1,000] = Activity 2.a. and Activity 2.b. Costs for calendar year 2020 [\$6,372,000].
2. Costs for Activities 2.a. and 2.b. for the second half of fiscal year 2020-2021 are calculated by dividing the costs for calendar year 2020 by two (6,372,000 / 2 = \$3,186,000).
3. Statewide backlog of sexual assault evidence kits subject to the test claim statute [5,830] x average cost of processing a sexual assault evidence kit for DNA [\$1,000] = Activity 2.a. and 2.b. Backlog Costs for the initial reimbursement period [\$5,830,000].
4. Activity 2.a. and 2.b. Costs for calendar year 2020 [\$6,372,000] + Activity 2.a and Activity 2.b. Costs for second half of fiscal year 2020-2021 [\$3,186,000] + Activity 2.a. and 2.b. Backlog Costs for the initial reimbursement period [\$5,830,000] = High End of Estimated Activity 2.a. and Activity 2.b. Costs for the initial claim period [\$15,388,000].
5. Assuming the same proportionality of 2.a. and 2.b. costs (2.a. actual costs claimed account for 91 percent and 2.b. for nine percent of their combined total), Total Estimated Activity 2.a. Costs for the initial claim period = \$15,388,000 x 0.91 [\$14,003,080] and High End of Estimated Activity 2.b. Costs for the initial claim period = \$15,388,000 x 0.09 [\$1,384,920].

Indirect Costs: The low end of the range for indirect costs is those indirect costs actually claimed. The high end, in addition to indirect costs actually claimed, assumes that all eligible claimants who have not yet filed claims will file claims for indirect costs at the same average rate actually claimed during the initial period of reimbursement, which is calculated as follows:

1. Indirect Costs Actually Claimed [\$3,963,871] / Direct Costs Actually Claimed [\$8,276,891] = Average Indirect Cost Rate [48%].

¹³ DOJ reported 6,372 sexual assault evidence kits collected statewide in calendar year 2020. Exhibit C (3), California Department of Justice, 2020 SAFE-T Annual Report to the Legislature, <https://oag.ca.gov/system/files/media/ag-report-safe-t-database-2020.pdf> (accessed on April 8, 2022), page 6.

2. Indirect Cost Rate [48%] x Estimated Direct Costs (sum of all estimated activity costs for the initial claim period) [\$17,687,913] = High End of the Estimated Indirect Costs [\$8,490,198].

Offsetting Revenues: The low end of the range is total offsetting revenues actually claimed. The high end assumes that all eligible claimants will file claims, with offsetting revenues reported by all eligible claimants at the same average rate, and is calculated as follows:

1. Actual Offsetting Revenues [\$1,022,578] / Actual Direct and Indirect Costs [\$12,240,762] = Offsetting Rate (offsetting revenues as a percentage of total costs claimed) [8%].
2. Estimated Non-filer Direct and Indirect Costs [\$13,937,349] x Offsetting Rate [8%] = Non-filer Offsetting Revenues [\$1,114,988].
3. Actual Offsetting Revenues [\$1,022,578] + Non-filer Offsetting Revenues [\$1,114,988] = High End of Estimated Offsetting Revenues [\$2,137,566].

Late Filing Penalties: The low end is \$0 because none of the initial claims compiled by the Controller were assessed a late filing penalty. The high end assumes that all eligible claimants will file claims for the initial period of reimbursement, which will be subject to a late filing penalty, and that penalty is calculated as follows:

1. Estimated Non-filer Direct and Indirect Costs [\$13,937,349] – Estimated Non-filer Offsets [\$1,114,988] = Estimated Non-filer Net Costs [\$12,822,361].
2. Estimated Non-filer Net Costs [\$12,822,361] x (10% late filing penalty) = Estimated Non-filer Late Filing Penalties [\$1,282,236].
3. Actual Late Filing Penalties [\$0] + Estimated Non-filer Late Filing Penalties [\$1,282,236] = High End of Estimated Late Filing Penalties [\$1,282,236].

B. Projected Annual Costs for Fiscal Year 2021-2022 and Following:

Beginning in fiscal year 2021-2022, future statewide costs are estimated to range from **\$7,513,209** to **\$10,763,822** annually.

The low end of the range assumes that the same claimants that filed reimbursement claims for the initial period of reimbursement will continue to file annual reimbursement claims, that the backlog of 5,830 untested kits is completed, and that the number of sexual assault evidence kits to be tested annually remains unchanged from 2020, as follows:

1. Initial Activity 1.a. Costs [\$271,541] / 1.5 (to account for the initial reimbursement period length of one and one-half years) = Annual Activity 1.a. Costs [\$181,027].
2. Initial Activity 2.a. and 2.b. Costs [\$8,005,350] / 1.5 years = Annual Activity 2. Costs [\$5,336,900].
3. Annual Activity 1.a. Costs [\$181,027] + Annual Activity 2. Costs [\$5,336,900] = Annual Direct Costs [\$5,517,927].
4. Indirect Cost Rate [0.48] x Annual Direct Costs [\$5,517,927] = Annual Indirect Costs [\$2,648,605].

5. Annual Direct and Indirect Costs [\$8,166,532] x Offsetting Rate [8%] = Annual Offsetting Revenues [\$653,323].
6. Annual Direct and Indirect Costs [\$8,166,532] – Annual Offsetting Revenues [\$653,323] = Low End Projected Future Annual Costs [\$7,513,209, plus the implicit price deflator].

The high end of the range assumes that all eligible claimants will file annual claims, that the backlog of 5,830 untested kits is completed during the initial reimbursement period, and that the number of sexual assault evidence kits remains unchanged from 2020:

1. Estimated Initial Activity 1.a. Costs [\$2,299,913] + (Activity 2. Costs for calendar year 2020 [\$6,372,000] x 1.5-year initial reimbursement period) = Direct Costs [\$11,857,913].
2. Direct Costs [\$11,857,913] / 1.5 (to account for the initial reimbursement period length of one and one-half years) = Annual Direct Costs [\$7,905,275].
3. Indirect Cost Rate [48%] x Annual Direct Costs [\$7,905,275] = Annual Indirect Costs [\$3,794,532].
4. Annual Direct and Indirect Costs [\$11,699,807] x Offsetting Rate [8%] = Annual Offsetting Revenues [\$935,985].
5. Annual Direct and Indirect Costs [\$11,699,807] – Annual Offsetting Revenues [\$935,985] = High End Estimated Annual Costs for 2021-2022 and Following [\$10,763,822, plus the implicit price deflator].

Draft Proposed Statewide Cost Estimate

On August 19, 2022, Commission staff issued the Draft Proposed Statewide Cost Estimate.¹⁴ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Staff Recommendation

Staff recommends that the Commission adopt this Statewide Cost Estimate of \$11,218,184 - \$22,758,009 for the Initial Claim Period (Second Half Fiscal Year 2019-2020 and Fiscal Year 2020-2021) and \$7,513,209- \$10,763,822, plus the implicit price deflator for fiscal year 2021-2022 and following.

¹⁴ Exhibit B, Draft Proposed Statewide Cost Estimate, issued August 19, 2022.

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 7, 2022, I served the:

- **Proposed Statewide Cost Estimate issued September 7, 2022**

Sexual Assault Evidence Kits: Testing, 20-TC-01

Penal Code Section 680 as Amended by Statutes 2019, Chapter 588 (SB 22)

City of San Diego, 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 7, 2022 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/19/22

Claim Number: 20-TC-01

Matter: Sexual Assault Evidence Kits: Testing

Claimant: City of San Diego

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.)

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