

Adopted: 2/27/98
Amended: 1/29/10

Amendment to Parameters and Guidelines

Penal Code Section 832.9

Statutes 1992, Chapter 1249

Statutes 1995, Chapter 666

Threats Against Peace Officers

05-PGA-44 (96-365-02)

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

I. Summary of the Mandate Source

Statutes 1992, chapter 1249 added Penal Code section 832.9. This statute requires governmental entities employing peace officers to reimburse the officer, or any member of his or her family for actual and necessary moving and relocation expenses incurred when it is necessary to move because the officer has received a threat that a life threatening action may be taken against the officer or his or her immediate family as a result of the peace officer's employment.

Statutes 1995, chapter 666 amended Penal Code section 832.9, by specifying guidelines for reimbursement.

II. Commission on State Mandates Decision

On April 24, 1997, the Commission determined that the requirements of Penal Code section 832.9, as added by Statutes 1992, chapter 1249, and amended by Statutes 1995, chapter 666 imposed upon local governments, a new program or higher level of service, within the meaning of section 6, article XIII B of the California Constitution and section 17514 of the Government Code.

III. Eligible Claimants

Eligible claimants include any local governmental entity employing peace officers, as defined in Penal Code section 830. Local governmental entities include "local agencies" as defined in Government Code section 17518, and "school districts" as defined in Government Code section 17519.

IV. Period of Reimbursement

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this state mandated program was filed on December 30, 1996, establishing eligibility for Fiscal Year 1995-96, commencing

July 1, 1995. However, both test claim statutes were *not* in effect on July 1, 1995. Therefore, reimbursement claims may be filed as follows:

Actual and necessary costs incurred pursuant to Statutes 1992, chapter 1249, are reimbursable after July 1, 1995.

Actual and necessary costs incurred pursuant to Statutes 1995, chapter 666, are reimbursable after January 1, 1996.

Actual and necessary costs for one fiscal year should be included in each claim. Estimated costs for the subsequent fiscal year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(3) of the Government Code, all claims for reimbursement of initial year's costs shall be submitted within 120 days of release of claiming instructions by the State Controller.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

V. Reimbursable Costs

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 under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." 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.

A. Scope of Mandate

Eligible claimants shall be reimbursed for the costs incurred to reimburse peace officers or any member of their immediate family for actual and necessary moving and relocation expenses when it is necessary to move because the officer has received a credible threat that a life threatening action may be taken against

the officer or his or her immediate family as a result of the peace officer's employment.

B. Reimbursable Activities

For the following state mandated activities, costs incurred by a local governmental entity for the direct and indirect costs of labor, supplies, services, and reimbursement payments made to a peace officer or member of his or her immediate family, residing with the peace officer, are reimbursable:

1. From July 1, 1995 through December 31, 1995
 - a. Review and approve claims for actual and necessary moving and relocation expenses incurred when it is necessary to move because the officer has received a threat that a life threatening action may be taken against the officer or his or her immediate family as a result of the peace officer's employment. Costs incurred both before and after the change of residence, including costs of moving household effects either by a commercial household goods carrier or by the employee, are reimbursable.
 - b. Payment of the approved reimbursement to the peace officer or member of his or her immediate family residing with the officer for actual and necessary moving and relocation expenses.
2. From January 1, 1996 through Present
 - a. Receive notification of a "credible threat." (Pen. Code, § 832.9, subs. (b)(5) & (c).)
 - b. Approve relocation plans and if necessary, verify residency of immediate family member. (Pen. Code, § 832.9, subs. (a), (b)(3), & (d).)
 - c. Review and approve claims for actual and necessary moving and relocation expenses incurred when it is necessary to move because the officer has received a threat that a life threatening action may be taken against the officer or his or her immediate family as a result of the peace officer's employment. Costs incurred both before and after the change of residence, including costs of moving household effects either by a commercial household goods carrier or by the employee, are reimbursable. Approval of "actual and necessary relocation costs" is subject to the limitations set forth in Penal Code section 832.9, as amended by Statutes 1995, chapter 666.
 - d. Payment of the approved reimbursement to the peace officer or member of his or her immediate family for actual and necessary moving and relocation expenses.

C. Non-Reimbursable Costs

1. Litigation expenses “allowable as costs” and “not allowable as costs” pursuant to section 1033.5 of the Code of Civil Procedure, are not reimbursable if incurred by claimants and/or local law enforcement agencies responding to and/or defending claims or actions brought under Penal Code section 832.9.
2. After January 1, 1996, the following costs are not reimbursable:
 - a. Moving costs that are *not* included in the Department of Personnel Administration rules governing promotional relocations. (Pen. Code, § 832.9, subd. (1).)
 - b. Loss or decrease in value to a peace officer’s residence due to a forced sale. (Pen. Code, § 832.9, subd. (b)(2).)
 - c. Costs incurred by a peace officer or member of their immediate family without prior approval of the appointing authority. (Pen. Code, § 832.9, subd. (b)(3).)
 - d. Unauthorized payment of peace officers’ salaries while moving. (Pen. Code, § 832.9, subd. (b)(4).)
 - e. Temporary relocation housing which exceeds 60 days. (Pen. Code, § 832.9, subd. (b)(6).)
 - f. Relocation costs incurred 120 days after the original notification of a viable threat if the peace officer has failed to relocate. (Pen. Code, § 832.9, subd. (b)(7).)

VI. Claim Preparation and Submission

Each claim for reimbursement pursuant to this mandate must be timely filed and provide documentation in support of the reimbursement claimed for this mandate.

A. Reporting by Components

Claimed costs must be allocated according to the components of reimbursable activity described in Section V.B.

B. Supporting Documentation

Claimed costs should be supported by the following information:

1. Salaries and Benefits

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

2. Services and Supplies

The claimant should identify all direct costs for materials, services and supplies which have been purchased, leased, consumed or expended for purposes of compliance with the mandate.

3. Reimbursements to Peace Officer or Member of His or Her Immediate Family for Actual and Necessary Moving and Relocation Expenses
 - a. Show the dates when the claimant received notification of the threat, when moving and relocation expenses were incurred, and when the officer or member of his or her immediate family was reimbursed.
 - b. Submit with the claim, a copy of the contract, invoices, and receipts for the cost of moving and relocation. Identify the independent contractor or employee who provided services for moving and relocation.
 - c. If confidentiality is involved to protect the officer's relocation, mark out sensitive areas of the contract, invoices, and receipts.
4. Allowable Overhead Costs

Government Code section 17564, subdivision (b), provides that claims for indirect costs shall be filed in the manner prescribed by the State Controller's Office.

VII. Records Retention

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

VIII. Offsetting Savings and Other Reimbursement

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., service fees collected, federal funds, other state funds, etc. shall be identified and deducted from this claim.

IX. Required Certification

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

An authorized representative of the claimant will be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained therein.