

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of:

*Domestic Violence Diversion
Program Closeout*

Penal Code Sections 1000.6, 1000.7,
1000.8, 1000.9, 1000.91, 1000.92,
1000.93, 1000.94, 1000.95, and 1000.96
Chapter 913, Statutes of 1979
Chapter 1158, Statutes of 1980
Chapter 221, Statutes of 1993
Chapter 641, Statutes of 1995

Claimant:

County of Los Angeles

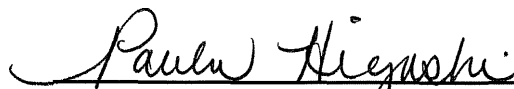
No. CSM-4447A

Domestic Violence Diversion Program Closeout

PARAMETERS AND GUIDELINES

The attached corrected, amended Parameters and Guidelines are hereby adopted by the
Commission on State Mandates as its decision in the above entitled matter.

This Decision shall become effective on June 26, 1997.


Paula Higashi, Executive Director
Commission On State Mandates

ADOPTED JUNE 26, 1997

AMENDED

PARAMETERS AND GUIDELINES

Repeal of Penal Code Sections
1000.6, 1000.7, 1000.8, 1000.9, 1000.91
1000.92, 1000.93, 1000.94, 1000.95, 1000.96
Chapter 641, Statutes of 1995
Domestic Violence Diversion Program Closeout

Penal Code Sections 1000.93, 1000.94, 1000.95
Chapter 221, Statutes of 1993
Domestic Violence Treatment Program Approvals

And Concurrently Amended Parameters and Guidelines
Penal Code Sections 1000.6, 1000.7, 1000.8,
Chapter 913, Statutes of 1979
Chapter 1158, Statutes of 1980
Domestic Violence Diversion

I. SUMMARY OF MANDATES

Chapter 641, Statutes of 1995, eliminated diversion as a domestic violence sentencing option for those arrested on or after January 1, 1996. Domestic violence treatment and monitoring, required for divertees arrested before January 1, 1996, under prior law, (Chapter 221/93, Chapter 913/79, and Chapter 1158/80) was not terminated by Chapter 641/95 and continues until the period of diversion has been completed. Such completion and resultant closeout costs, for the period January 1, 1996 through June 30, 1997, may be claimed as provided herein.

Chapter 641, Statutes of 1995 also amended Penal Code Section 1203.097, requiring county probation departments to continue Domestic Violence treatment program approval, monitoring, and related duties, for domestic violence probationers. Reimbursement for such continuing State mandated costs is not provided for herein.

Prior to passage of Chapter 641/95, the Commission on State Mandates, at its May 26, 1994 hearing, determined that the provisions of Penal Code sections 1000.93, 1000.94, and 1000.95 as added by Chapter 221/93, imposed a new, reimbursable state mandated program upon county probation departments within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514, by requiring such probation departments to administer an approval process for batterers treatment programs and to renew the approval of such programs within specified standards, criteria, and procedures as listed therein. The Commission further determined that

section 1000.94, subdivision (c), provides limited fee authority enabling county probation departments to charge the batterers programs for approval costs; and that, to the extent that such reimbursement is not sufficient to cover the costs of these activities, the unreimbursed portion of such costs are costs mandated by the state.

At its November 17, 1994 hearing, the Commission consolidated its Parameters and Guidelines for a related domestic violence diversion (1985) test claim, regarding Penal Code sections 1000.6 through 1000.11, as added and amended by Chapters 913179 and Chapter 1158/80, requiring that county probation departments investigate for and make recommendations to the court in regards to eligible diversion defendants, monitor the progress of diverted defendants, and follow other requirements as stated therein.

II. COMMISSION ON STATE MANDATES DECISION

At its June 26, 1997 hearing the Commission determined that the repeal of Penal Code sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.91, 1000.92, 1000.93, 1000.94, 1000.95, and 1000.96, in Chapter 641/95 no longer imposed a reimbursable state mandated program for domestic violence divertees, arrested on or after January 1, 1996.

At its May 26, 1994, hearing, the Commission on State Mandates determined that the provisions of Penal Code section 1000.93, 1000.94, and 1000.95, as added by Chapter 221, Statutes of 1993, impose a reimbursable state mandated program upon local probation departments.

III. ELIGIBLE CLAIMANTS

Counties

IV. PERIOD OF REIMBURSEMENT

In accordance with the provisions of Chapter 641/95, repealing domestic violence diversion as a sentencing option for those arrested on or after January 1, 1996, domestic violence treatment program approval and divertree monitoring, investigation, and reporting costs shall only be paid to permit those arrested prior to January 1, 1996 to complete their required course of treatment, under Chapter 22 1193, by June 30, 1997 .

After June 30, 1997, county probation departments are still required to provide domestic violence treatment program approval and monitoring in accordance with chapter 64 1/95. Reimbursement for such continuing State-mandated costs is not provided for herein.

Chapter 221, Statutes of 1993 was approved by the Governor on July 27, 1993 and became operative on January 1, 1994.

Section 17557 of the Government Code states that a test claim must be submitted on or before November 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed by the County of Los Angeles on December 22, 1993. Therefore, costs incurred for Chapter

221, Statutes of 1993, on or after its operative date of January 1, 1994 are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent 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 costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claim bill.

If 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

A. Scope of Mandate

Local probation departments shall be reimbursed for costs incurred through June 30, 1997, for domestic violence divertees arrested before January 1, 1996, to comply with county probation department initial approval and annual approval renewal requirements for all domestic violence treatment programs as specified in Chapter 221/93, and domestic violence diversion duties, as specified in chapter 913/79 and Chapter 1158/80.

B. The following local government costs necessary to implement Penal Code sections 1000.93, 1000.94 and 1000.95, as added by Chapter 22 1, Statutes of 1993, and Penal Code sections 1000. 6, 1000.7, 1000.8, 1000.9, 1000.10 and 1000.11, as specified in Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980:

1. For the preliminary development , initial design , and continuing implementation of an approval and annual renewal process for batterer's programs, including meeting and conferring with, soliciting input from, criminal justice agencies and domestic violence victim advocacy programs.
2. For the processing of initial and annual renewal approvals for vendors, including :
 - a. Application review.
 - b. On-site program evaluations.
 - c. Notification of application approval, denial, suspension or revocation.
3. For on-site reviews of batterer's programs, including program monitoring to ensure adherence with applicable statutes and regulations.
4. For each defendant diverted, an initial assessment shall be made by the probation department, including but not limited to the following:
 - a. Medical history.
 - b. Substance abuse history.

- c. Consultation with the probation officer.
 - d. Consultation with the victim, only if the victim desires to participate.
 - e. Social, economic, and family background.
 - f. Education.
 - g. Vocational achievements.
 - h. Reviewing a defendant's prior criminal history.
 - i. Determining that a defendant has not experienced a revocation of probation or parole on a prior occasion.
 - j. Determining that a defendant has not been previously diverted for acts of domestic violence.
 - k. Contacting the victim to determine injuries and prior incidents.
 - l. Contacting treatment resources previously utilized by the defendant.
 - m. Conducting an investigation into the defendant's potential to benefit from educational, treatment or rehabilitative services.
 - n. Determining which community programs would be of benefit to the defendant.
5. For monitoring and evaluating the progress of each defendant's participation in the batterer's program, in accordance with Chapter 9 13, Statutes of 1979, and Chapter 1158, Statutes of 1980.
6. For reporting the probation department's findings and recommendations to the court and/or returning the defendant to the court if he is not performing satisfactorily in a diversion program or has been convicted of a violent crime, all in accordance with Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980.

In accordance with Chapter 221, Statutes of 1993, findings to the court shall also include:

- a. Whether the defendant has been violence free for a minimum of six months,
- b. Whether the defendant as cooperated and participated in the batterer ' s program.
- c. Whether the defendant demonstrates an understanding of and practices positive conflict resolution skills.
- d. Whether the defendant blames, degrades or has committed acts which dehumanize the victim or puts at risk the victim's safety, including, but not limited to, stalking, striking, attacking, threatening, sexually assaulting or battering the victim.
- e. Whether the defendant demonstrates an understanding that use of coercion or violent behavior is unacceptable in an intimate relationship.

- f. Whether the defendant has made threats to harm anyone in any manner.
 - g. Whether the defendant has complied with any requirements under Penal Code section 1000.95, subdivision (d), or Penal Code section 1000.96 to receive alcohol counseling, drug counseling or both.
- 7 . For notifying the victim of:
- a. Requirements for the defendant's participation in the intervention program.
 - b. Available victim resources.
 - c. A caveat that the defendant's attendance in any program does not guarantee that an abuser will not be violent.

VI. CLAIM PREPARATION AND SUBMISSION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate. Prior year costs are eligible for reimbursement under previous parameters and guidelines and the corresponding State Controller Office's claiming instructions.

Claimed costs should be supported by the following:

A. Employee Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the mandated functions performed by each employee. Specify the actual time (hours and minutes) spent on each function, the productive hourly rate and related fringe benefits. In-lieu of actual time (hours and minutes), the average time devoted to each function may be claimed if supported by a documented time study.

B. Materials and Supplies

Only expenditures which can be identified as direct costs of the mandate can be claimed. List costs/prices of printing, materials and supplies which have been consumed or expended specifically for the purpose of this mandate. The costs of training classes are reimbursable. Purchases made shall be claimed at the actual price after deducting for all cash discounts, rebates and allowances received by the claimant.

C. Travel Expenses

Travel expenses for mileage, per diem, lodging and other employee entitlements are reimbursable in accordance with the rules of the local jurisdiction. Give the name(s) of the traveler(s), purpose of travel, mode of travel, inclusive travel dates, destination points and costs. Reimbursable travel costs include, but are not limited

to those required to conduct on-site reviews, initial assessment of the defendant and attending necessary training classes.

D Contracted Services

Contracted costs are reimbursable to the extent that the function performed requires special skills or knowledge that is not readily available from the claimant's staff. Give the name(s) of the contractor(s) who performed the services. Describe the functions performed by each contractor which relate to the mandate. Specify the actual time (hours and minutes) spent on the mandated function, inclusive dates of service and itemize all costs for services performed.

E. Fixed Assets (Land, Building, Equipment and Fixtures)

Compensation for fixed asset costs are reimbursable utilizing the procedure provided in the Office of Management and Budget Circular A-87 (OMB A-87). Example: compensation for the use of equipment. The claimant may be compensated for the equipment use through use allowance or depreciation. A use allowance may be computed at an annual rate not exceeding $6 \frac{2}{3} \%$ of acquisition cost. This is reported and claimed through the agency's service-wide cost allocation plan under the cost element "Use Allowance. " Where a depreciation method is followed, adequate property records must be maintained and any generally-accepted method of computing depreciation may be used. However, the method of computing depreciation must consistently be applied for any specific class of assets for all affected programs. If the equipment is also used for other programs, the amount of depreciation must be prorated.

F. Allowable Overhead Cost

Claimants have the option of using 10 % of direct labor, excluding fringe benefits and costs above the first line supervision, or preparing a departmental Indirect Cost Rate Proposal (ICPP) for the program if an indirect cost rate in excess of 10% is claimed. If more than one department is claiming indirect costs for the mandated program, each department must have their own ICRP prepared in accordance with OMB A-87.

VII. SUPPORTING DATA

For auditing purposes, costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code section 17558 .5, Subdivision (a), these documents must be retained by the agency submitting the claim for a period of no less than two years after the end of the calendar year in which the reimbursement claim is filed or last amended, and made available on the request of the State Controller. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the time for the State Controller to initiate an audit shall commence to run from the date of initial payment of the claim.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimant experiences as a direct result of the subject mandates shall be deducted from the costs claimed. All Penal Code section 1000.94, subdivision (c), program approval fees and other reimbursements for the subject state mandates received from any source, e .g . , federal, state, etc., shall be identified and deducted from this claim.

IX. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

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

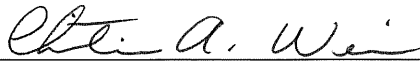
DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment and business address is 1300 I Street, Suite 950, Sacramento, California 95814.

On July 23, 1997, I served the attached Ps & Gs, "*Domestic Violence Diversion Program Closeout*," of the Commission on State Mandates by placing a true copy thereof in an envelope addressed to each of the persons listed on the **attached mailing list**, and by sealing and depositing said envelopes in the United States mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 23, 1997, at Sacramento, California.


CHRISTINE A. WEIN