

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Penal Code Sections 290 and 290.4;  
Statutes of 1996, Chapters 908 and 909;  
Statutes of 1997, Chapters 17, 80, 817, 818,  
819, 820, 821, and 822; Statutes of 1998,  
Chapters 485, 550, 927, 928, 929, and 930

Filed on December 30, 1997, and  
Amended on July 14, 1999;

By County of Tuolumne, Claimant.

NO. CSM 97-TC-15

***Sex Offenders: Disclosure by Law  
Enforcement Officers***


ADOPTION OF PARAMETERS AND  
GUIDELINES PURSUANT TO  
GOVERNMENT CODE SECTION  
17557 AND TITLE 2, CALIFORNIA  
CODE OF REGULATIONS, SECTION  
1183.12

***(Adopted on March 28, 2002)***

**ADOPTED PARAMETERS AND GUIDELINES**

The attached Parameters and Guidelines is hereby adopted in the above-entitled matter.

This Decision shall become effective on March 29, 2002.

  
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PAULA HIGASHI, Executive Director

## **Parameters and Guidelines**

Penal Code Sections 290 and 290.4

Statutes of 1996, Chapters 908 and 909

Statutes of 1997, Chapters 17, 80, 817, 818, 819, 820, 821, and 822

Statutes of 1998, Chapters 485, 550, 927, 928, 929, and 930

### ***Sex Offenders: Disclosure by Law Enforcement Officers*** ***(“Megan’s Law”)***

#### **I. SUMMARY OF THE MANDATE**

The test claim legislation (Penal Code sections 290 and 290.4) concerns the registration of certain convicted sex offenders and public disclosure of their identity by local law enforcement agencies. Section 290 specifically relates to the registration of these sex offenders when they are released from incarceration, when they move or change their temporary or permanent residence, or when they update their registration on an annual basis. Section 290 also allows local law enforcement agencies to disclose the identities of sex offenders to the public when a peace officer reasonably suspects that it is necessary to protect the public. Section 290.4 requires the Department of Justice to continually compile and maintain information regarding the identity of convicted sex offenders and to establish a “900” telephone number and CD-ROM program for public access of this information. The Department of Justice must distribute the information obtained on convicted sex offenders by CD-ROM or other electronic medium to local law enforcement agencies who in turn “may” then provide public access to the information. However, municipal police departments of cities with a population of less than 200,000 are exempt from this requirement.

On August 23, 2001, the Commission on State Mandates (Commission) adopted its Statement of Decision partially approving the test claim. The Commission found that the following required activities are a “new program or higher level of service” under article XIII B, section 6 of the California Constitution and result in “costs mandated by the state” within the meaning of Government Code section 17514:

- ⌘ Submission of Registered Sex Offender **information** to the Department of Justice’s Violent Crime Information Network by Local Law Enforcement Agencies (Pen. Code, §290, subd. (a)(1)(F) .)
- Removal of Registration for Decriminalized Conduct (Pen. Code, §290, subd. (a)(2)(F)(i).)
- Pre-register (Pen. Code, §290, subd. (e)(1)(A-C).)
- ⌘ Contents of Registration Upon Release (Pen. Code, §290, subd. (e)(2)(A-E).)
- Notice of Reduction of Registration Period (Pen. Code, §290, subd. (l)(l).)
- ⌘ High-Risk Sex Offenders (Pen. Code, §290, subd. (n).)

- CD ROM (Pen. Code, §290.4, subd. (4)(A-C).)
- Records Retention (Pen. Code, §290, subd. (o).)

Lastly, the Commission found that all other activities in the test claim legislation did not constitute a reimbursable state mandated program pursuant to article XIII B, section 6 of the California Constitution.

## **II. ELIGIBLE CLAIMANTS**

Any county, city, city and county, or community college district, that has incurred increased costs as a direct result of this mandate is eligible to claim reimbursement of these costs, except as limited in Section IV, activity 12.

## **III. PERIOD OF REIMBURSEMENT**

Government Code section 1755 1, prior to its amendment by Statutes of 1998, chapter 68 1, (effective September 22, 1998), stated that a test claim must be submitted on or before December 3 1 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed on December 30, 1997. Therefore, costs incurred on or after July 1, 1996, for compliance with the mandate are reimbursable, unless otherwise specified below.<sup>1</sup>

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

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.

## **IV. REIMBURSABLE ACTIVITIES**

For each eligible claimant, the following activities are eligible for reimbursement:

### **A. One-Time Activities**

1. Train staff on implementing the reimbursable activities listed in Section IV, activities 2 through 13, of these parameters and guidelines. (One-time activity per employee.)
2. Develop internal policies, procedures, and manuals to implement *Sex Offenders: Disclosure by Law Enforcement Officers ("Megan's Law")*.
3. Notify every registered sex offender convicted prior to January 1, 1997, within the claimant's jurisdiction of the reduction in the time to register or reregister from 14 days to 5 days. (Pen. Code, § 290, subd. (1)(1).)<sup>2</sup> (*Reimbursement period begins October 8, 1997.*)

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<sup>1</sup> The statutes have different operative dates, therefore the reimbursement period for some activities may begin on a different date.

<sup>2</sup> As amended by Statutes of 1997, chapter 821, an urgency statute effective October 8, 1997.

## B. On-Going Activities

4. Develop, collect, and transmit sex offender registrations from the local jurisdiction directly into the Department of Justice Violent Crime Information Network. (Pen. Code, § 290, subd. (a)(1)(F).)<sup>3</sup> (*Reimbursement period begins January 1, 1999.*)
5. Remove a sex offender's registration from the local jurisdiction's files within 30 days of receiving notice to do so from the Department of Justice. (Pen. Code, § 290, subd. (a)(2)(F)(i). )<sup>4</sup> (*Reimbursement period begins October 8, 1997.*)
6. If the local law enforcement agency is the current place of incarceration, pre-registration of a convicted sex offender, including the obtaining of a current photograph and fingerprints of the offender as well as a written statement relaying information as is required by the Department of Justice. Notify the sex offender as acknowledgement of the information contained within the pre-registration statement. (Pen. Code, § 290, subd. (e)(1)(A-C). )<sup>5</sup> (*Reimbursement period begins October 8, 1997.*)
7. Verify that the sex offender's signed statement contains the name and address of the offender's employer, and the address of the offender's place of employment if it is different from the employer's main address. (Pen. Code, § 290, subd. (e)(2)(A).)<sup>6</sup> (*Reimbursement period begins October 8, 1997.*)
8. Verify that the offender's registration includes information related to any vehicle regularly driven by the offender, including license number, make, model, and such other information as may be requested by the Department of Justice. (Pen. Code, § 290, subd. (e)(2)(C).)<sup>7</sup> (*Reimbursement period begins October 8, 1997.*)
9. Verify that the convicted sex offender has adequate proof of residence, as determined by the Department of Justice; proof of residence is currently limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents, or any other information that the registering official believes is reliable. If the offender does not have a residence, and no reasonable expectation of obtaining a residence in the foreseeable future, then the local law enforcement agency shall obtain a statement to that effect from the sex offender. (Pen. Code, § 290, subd. (e)(2)(E). )<sup>8</sup> (*Reimbursement period begins January 1, 1999.*)
10. Provide high-risk sex offenders a printed form from the Department of Justice regarding reevaluation in order to be removed from the high-risk classification. (Pen. Code, § 290, subd. (n)(1)(G)(ii).)<sup>9</sup> (*Reimbursement period begins September 25, 1996.*)

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<sup>3</sup> As added by Statutes of 1998, chapter 929.

<sup>4</sup> As added by Statutes of 1997, chapter 821.

<sup>5</sup> As added by Statutes of 1997, chapter 821.

<sup>6</sup> As added and amended by Statutes of 1997, chapter 821.

<sup>7</sup> As added and amended by Statutes of 1997, chapter 821.

<sup>8</sup> As added by Statutes of 1998, chapters 928 and 929.

<sup>9</sup> As added by Statutes of 1996, chapter 908, an urgency statute effective September 25, 1996.

11. Maintain such photographs and statistical information concerning high-risk sex offenders as is received quarterly from the Department of Justice. (Pen. Code, § 290, subd. (n)(2) .)<sup>10</sup> (*Reimbursement period begins September 25, 1996.*)
12. For sheriff's departments in each county, municipal police departments of cities with a population of more than 200,000, and police departments or community college districts, to provide the necessary equipment, and staff assistance for the public to access the sex offender information provided by the Department of Justice on CD-ROM or other electronic medium, and to obtain information from individuals requesting access to the CD-ROM as required by the Department of Justice. (Pen. Code, § 290.4, subd. (a)(4)(A). )<sup>11</sup> (*Reimbursement period: September 25, 1996 through December 31, 2003.*)
13. Maintain records of those persons requesting access to the information contained within the CD-ROM or other electronic medium for a minimum of five years, and costs of destruction of such records at the end of such time. Additionally, a record of the means and dates of dissemination of information regarding high-risk offenders must be maintained for a minimum of five years, and costs of destruction at the end of such time. (Pen. Code, § 290, subd. (o).)<sup>12</sup> (*Reimbursement period begins October 8, 1997.*)

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

Each reimbursement claim for this mandate must be timely filed. Each of the following cost elements must be identified for each reimbursable activity identified in Section IV of this document.

### **A. Direct Cost Reporting**

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

#### **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.

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<sup>10</sup> As added by Statutes of 1996, chapter 908.

<sup>11</sup> As added by Statutes of 1996, chapter 908. Penal Code section 290.4 contains a sunset provision wherein it is only operative until January 1, 2004.

<sup>12</sup> As amended by Statutes of 1997, chapter 821.

### 3. Contracted Services

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

### 4. Fixed Assets and Equipment

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

### 5. Travel

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

### 6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A. 1, Salaries and Benefits, and A .2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.

### 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.

### Cities and Counties

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

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

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

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

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

### Community Colleges

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the OMB Circular A-2 1, "Cost Principles of Educational Institutions " ; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7 % indirect cost rate.

## **VI. SUPPORTING DATA**

### **A. Source Documents**

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

### **B. Record Keeping**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. \* See the State Controller's claiming instructions regarding retention of required documentation during the audit period.

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

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

## **VIII. 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.

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

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

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



## 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 is 980 Ninth Street, Suite 350, Sacramento, California 958 14.

March 29, 2002, I served the:

### **Adopted Parameters and Guidelines**

*Sex Offenders: Disclosure by Law Enforcement Officers*, CSM 97-TC-15

Penal Code Sections 290 and 290.4

Statutes of 1996, Chapters 908 and 909

Statutes of 1997, Chapters 17, 80, 817, 818, 819, 820, 821 and 822

Statutes of 1998, Chapters 485, 550, 927, 928, 929 and 930

by placing a true copy thereof in an envelope addressed to:

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

Mr. Glen Haas, Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 958 16

*State Agencies and Interested Parties (See attached mailing list);*

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

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 March 29, 2002, at Sacramento, California.

  
VICTORIA SORIANO