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July 18, 2023
*Commission on
State Mandates*

Gavin Newsom ■ Governor

915 L Street ■ Sacramento CA ■ 95814-3706 ■ www.dof.ca.gov

July 18, 2023

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Finance Comment: Test Claim 22-TC-03, Criminal Procedure: Resentencing

Dear Director Halsey:

The Department of Finance (Finance) has completed its review of test claim 22-TC-03 submitted to the Commission on State Mandates (Commission) by the County of Los Angeles (Claimant), in which the Claimant alleges it incurred reimbursable, state-mandated costs associated with Chapter 719, Statutes of 2021 (Assembly Bill 1540). For the reasons detailed below, Finance asserts the Claimant is seeking state reimbursement for costs that are not state-reimbursable.

Prior to enactment of AB 1540, statute as added by AB 1812 (Chapter 36, Statutes of 2018) authorized a process for the resentencing of inmates sentenced to state prison, or sentenced to county jail for certain felonies. AB 1812 allowed the judge who issued the original sentence to recall the sentence and resentence the inmate within 120 days, to a term not longer than the original term. AB 1812 also allowed judges to resentence inmates to shorter terms upon the recommendation of the secretary of the Board of Parole Hearings (Board) or of the county correctional administrator (CCA), as appropriate.

AB 1812 did not require hearings for resentencing recommendations, and it did not require that inmates be provided legal counsel during the resentencing process.

AB 1540 amended the resentencing process established by AB 1812 in several ways. The amendments that are relevant to this test claim are as follows:

- AB 1540 allows resentencing recommendations to also be issued by the Secretary of the Department of Corrections and Rehabilitation (CDCR), the district attorney that prosecuted the case, or the state Attorney General (AG) if the Department of Justice prosecuted the case.
- For a resentencing recommendation made by the Board, the CCA, the CDCR, the district attorney, or the AG, AB 1540 requires the court to provide notice to the inmate, to set a status conference on the recommendation within 30 days of receipt, and to then hold a hearing on the resentencing recommendation.

- For a resentencing recommendation made by the judge that issued the original sentence, AB 1540 states that hearings shall be held, but that the hearings for an approved resentencing can be waived upon stipulation of all parties.
- AB 1540 requires that the inmate be provided legal counsel during the resentencing hearings.

The Claimant states the Los Angeles County District Attorney's Office (DA) incurred \$343,694 in costs in 2021-22 related to AB 1540. The Claimant further estimates the DA will incur costs of \$576,985 in 2022-23. The test claim states that none of these costs are related to DA-recommended resentencings.

The Claimant states the Los Angeles County Public Defender's Office (PD) incurred \$101,166 in costs in 2021-22 related to AB 1540. The Claimant further estimates the PD will incur costs of \$584,000 in 2022-23, of which \$475,000 is for DA-recommended resentencings and \$109,000 is for CDCR-recommended resentencings.

Finance asserts that costs incurred by the Claimant do not qualify for state reimbursement because AB 1540 falls within the exception providing that statutes that change the penalty for a crime or infraction do not give rise to state reimbursable mandates.

Finance also asserts that any costs incurred by the DA in relation to DA-recommended resentencing requests are not state-reimbursable, because they are incurred at the discretion of the Claimant, and we acknowledge the Claimant states it is not seeking reimbursement for these costs in the test claim.

Finance further asserts that any costs incurred by the PD in relation to DA-recommended resentencings are not state-reimbursable. These costs are being incurred by one part of County government because of the discretionary actions of another part of County government. Consequently, these costs are not state-mandated and do not qualify for state reimbursement.

If you have any questions regarding this letter, please contact Chris Hill, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

Teresa Calvert

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Program Budget Manager

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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 July 20, 2023, I served the:

- **Finance's Comments on the Test Claim filed on July 18, 2023**

Criminal Procedure: Resentencing, 22-TC-03

Statutes 2021, Chapter 719, Section 3.1 (AB 1540); Penal Code Sections 1170.03, 1170.1 (recodified as Penal Code Section 1172.1 by Statutes 2022, Chapter 58, Section 9 (AB 200), effective June 30, 2022), and 5076.1, effective January 1, 2022

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 July 20, 2023 at Sacramento, California.

David Chavez

David Chavez
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/21/23

Claim Number: 22-TC-03

Matter: Criminal Procedure: Resentencing

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.)

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