

**COMMISSION ON STATE MANDATES**

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October 6, 2006

Mr. Leonard Kaye  
Office of the Auditor-Controller  
County of Los Angeles  
500 West Temple Street, Room 525  
Los Angeles, CA 90012-2766

*And Affected State Agencies and Interested Parties (See Enclosed Mailing List)*

**Re: Final Staff Analysis and Proposed Parameters and Guidelines**  
*Domestic Violence Arrests and Victim Assistance, 98-TC-14*  
County of Los Angeles, Claimant  
Penal Code Sections 264.2 and 13701  
Statutes 1998, Chapters 698 and 702

Dear Mr. Kaye:

The final staff analysis and proposed parameters and guidelines are enclosed for your review.

**Commission Hearing**

This matter is set for hearing on **October 26, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance of the hearing if you or a representative of your agency will testify at the hearing, and if other witnesses will also appear.

**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.

If you have any questions, please contact Cathy Cruz Jefferson at (916) 323-8218.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI  
Executive Director

Enclosures

MAILED: Mail List FAXED: \_\_\_\_\_  
DATE: 10/6/94 INITIAL: LP  
CHRON: FILE: \_\_\_\_\_  
WORKING BINDER: \_\_\_\_\_

**ITEM 11**  
**FINAL STAFF ANALYSIS**  
**PROPOSED PARAMETERS AND GUIDELINES**

Penal Code Sections 264.2 and 13701

Statutes 1998, Chapters 698 and 702

*Domestic Violence Arrests and Victim Assistance (98-TC-14)*

County of Los Angeles, Claimant

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**EXECUTIVE SUMMARY**

**Summary of the Mandate**

On December 9, 2004, the Commission on State Mandates (Commission) adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (Pen. Code, § 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Pen. Code, §§ 243, subd. (e), & 273.5) to those for which a victim card is given out (Pen. Code, § 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).

## **Discussion**

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

A draft staff analysis was issued on August 31, 2006. The claimant and Department of Finance (DOF) submitted comments on September 15, 2006, and September 28, 2006, respectively. Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines.

### ***II. Eligible Claimants***

Staff modified this section such that only local agencies are eligible claimants, consistent with the Statement of Decision.

### ***IV. Reimbursable Activities***

The claimant's proposed reimbursable activities mirrored those in the Commission's Statement of Decision, with the addition of the activity to add specific information to the domestic violence response policy pursuant to Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D). However, the Statement of Decision specifically found that reimbursement was not required for Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D). Therefore, consistent with the Statement of Decision, staff did not include the additional ongoing activity of adding victim assistance information and information about the victims' compensation program to the domestic violence response policy, as proposed by the claimant.

Staff found that obtaining the victim card, giving the card to the victim, explaining what is on the card, addressing the victim's questions, and obtaining an interpreter (if necessary) are reasonable methods of complying with the mandate. Therefore, under the ongoing activity to provide victim cards to victims, staff listed the specific reimbursable actions. However, an officer's time for investigating and arresting the accused is not reimbursable.

In its comments to the draft staff analysis, the claimant requested that specific time study language be included in this section. The claimant believes that time studies are an alternate way of developing unit costs and is currently carrying out a time study for this purpose. Staff included the time study language accordingly.

### ***V. Claim Preparation and Submission***

The claimant proposed reasonable reimbursement methodologies for the proposed reimbursable activities. However, staff finds that the evidence in the record does not demonstrate that the proposed reasonable reimbursement methodologies meet the conditions required by Government Code section 17518.5. Therefore, staff recommends the actual cost methodology for this program. DOF supports this recommendation.

Staff notes that the direct cost elements for travel and training were not included because training is not a reimbursable activity and travel costs should not be incurred.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed parameters and guidelines for the *Domestic Violence Arrests and Victim Assistance* program, beginning on page 11. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

## STAFF ANALYSIS

### Claimant

County of Los Angeles

### Chronology

12/09/04 Commission on State Mandates (Commission) adopted Statement of Decision  
01/07/05 Claimant submitted proposed parameters and guidelines  
03/01/05 The State Controller's Office (SCO) submitted comments  
01/27/06 Commission staff requested the claimant to justify its proposed reasonable reimbursement methodology  
03/15/06 Claimant requested a pre-hearing conference  
04/04/06 Claimant submitted declarations to support its proposed reasonable reimbursement methodology  
04/25/06 Commission staff convened a pre-hearing conference  
08/31/06 Commission issued a draft staff analysis  
09/15/06 Claimant submitted comments on the draft staff analysis  
09/28/06 The Department of Finance (DOF) submitted comments  
10/06/06 Commission issued final staff analysis

### Summary of the Mandate

On December 9, 2004, the Commission on adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Stats. 1998, ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Stats. 1998, ch. 698), impose a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal Code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (Pen. Code, § 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Pen. Code, §§ 243, subd. (e), & 273.5) to those for which a victim card is given out (Pen. Code, § 13701, subd. (c)(9)(H)).

- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).

## Discussion

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

A draft staff analysis was issued on August 31, 2006. The claimant submitted comments on September 15, 2006. The DOF submitted comments on September 28, 2006. Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines.

### II. Eligible Claimants

The claimant proposed that eligible claimants include any city, county, city and county, school district, or community college district. However, as the SCO correctly commented, the Statement of Decision specifically states that this is a mandated program on local agencies only. Staff modified this section accordingly.

### IV. Reimbursable Activities

#### Claimant's Proposed Activities

The claimant's proposed reimbursable activities mirrored those in the Commission's Statement of Decision, with the addition of the following ongoing activity:

When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services (5) under Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) as underlined below is reimbursable:

- (subd. (c)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."
- (subd. (c)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""

The SCO suggested that these activities not be included in the parameters and guidelines.

Staff notes the Commission's finding that for years in which Statutes 1984, chapter 1609 is not suspended in the budget act, the one-time activity of adding the following information to the domestic violence response policy is a mandated new program or higher level of service:

- Victim assistance provisions: "transportation to a hospital for treatment when necessary," and "assistance in safe passage out of the victim's residence." (Pen. Code, §13701, subd. (c)(7).)

- Victim notice: “A statement that, “For information about the California victims’ compensation program, you may contact 1-800-777-9229.” (Pen. Code, § 13701, subd. (c)(9)(D).)

However, the Statement of Decision specifically states that:

Except for fiscal year 2003-2004, the underlying program has been suspended by the Legislature since the effective date of the test claim statute. According to a declaration provided by the claimant, the claimant incurred costs for this one-time activity between January 1, 1999, and June 30, 1999, when the suspension was in effect and the state did not mandate the activities. [Fn. Omitted.] Therefore, there is no evidence in the record that the activity of adding victim assistance information and information about the victims compensation program, as required by Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D), to the domestic violence response policy resulted in “costs mandated by the state,” within the meaning of Government Code section 17514, to the claimant or any other local agency. **Therefore, reimbursement is not required for Penal Code section 13701, subdivisions (c)(7) & (c)(9)(D).** [Emphasis added.]

Thus, staff did not include the additional ongoing activity proposed by the claimant.

#### Providing the Victim Card to Victims

In its proposed reimbursement methodology submitted in April 2006, the claimant states the following activities are in its ‘Protocol’ for delivering the victim card:<sup>1</sup>

1. The deputy shall obtain the card. The card is usually kept in the deputy’s patrol bag which is stored in the trunk of the deputy’s patrol vehicle.
2. [Procedures concerning obtaining a file number and entering data.]
3. When handing the victim the card, the deputy must explain what the card is and how to use it.
  - The deputy must obtain the victim’s attention. This is not an easy task. Given the emotional nature of the situation, the victim is usually upset and has difficulty concentrating and/or calming down. If there is an arrest of the batterer or other type of action, this may divert the victim’s attention further extending the period of time to explain the card to the victim.
  - The deputy will explain what is on the card (the phone numbers and the file number) and how the victim could use the card. One way to ensure that the victim is absorbing the information is to have the victim repeat what the deputy has just said.
  - The deputy must be sympathetic, understanding, and not rush the explanation as this will cause the victim to not understand the card and/or forget about the card altogether.

<sup>1</sup> See Declaration of Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison, Sheriff’s Department, County of Los Angeles, Exhibit F, pages 181-186. The declaration states, “I declare that it is my information and belief that based on my experience, education, and training that the minimum time to perform the necessary activities, identified in the protocol, attached as Exhibit A, is 10 minutes.”

- If the deputy is sympathetic, understanding, and explains the card in a slow and concise manner, the victim may not remember everything the deputy said, but they should remember that the card is available.
4. Common questions which the deputy must be prepared to address are: [questions about the shelter and incarceration of the accused are listed].
  5. Victims who are deaf, blind, or speak certain languages may require information concerning disability-specific shelters or language-specific shelters such as Spanish, Cantonese, and Mandarin.
    - The officer, in these cases, helps direct these victims to the most appropriate shelter.
    - The officer, in these cases, uses an interpreter at the scene to communicate with the victim whether it is a language or special needs such as deafness.
    - If the officer does not speak the victim's language, a fellow deputy, a non-interested party, or a Watch Desk is contacted and an interpreter is used via the phone on a three or four way call. Family members are not used to interpret for the officer.

The issue is whether the activities in this 'Protocol' are "the most reasonable method of complying with the mandate."<sup>2</sup>

As stated in the Assembly Floor Analysis of the test claim legislation (Stats. 1998, ch. 698): "According to the author, 'AB 1201 intends to provide victims of domestic violence the same information on access to counseling and services as is provided in current law for victims of rape and sexual assault.'"<sup>3</sup> Thus, the legislative intent was to give domestic violence victims the access to services that the law affords to rape and sexual assault victims. Therefore, it is instructive to analyze the parameters and guidelines for the *Rape Victims Counseling Center Notice* test claim (CSM-4426), which reimburses the activity of distributing victim cards to rape and sexual assault victims.

Parameters and guidelines for CSM-4426 were adopted on May 26, 1994, and amended on December 19, 1996. Under "Reimbursable Continuing Costs," paragraph B. 2 (b), the following activities are eligible for reimbursement:

Law enforcement's road officer, clerical, and dispatcher costs required to: request each victim's consent to notify a rape counseling center, each time alleged violation(s) include at least one violation of Penal code section 261, 261.5, 262, 286, 288a, 289, alleged separately or in combination with other violations; **furnish a rape victim with a "Victims of Domestic Violence" card**; record, file, and/or data-process state mandated information; and, provide hospital verification whether the local rape victim counseling center has been notified, upon the consent of the victim. [Emphasis added.]

<sup>2</sup> California Code of Regulations, title 2, section 1183.12, subdivision (b)(2).

<sup>3</sup> Assembly Floor Analysis, Concurrence in Senate Amendments, Assembly Bill No. 1201 (1997-1998 Reg. Sess.) as amended July 30, 1998, page 2.



Under the heading, "Claim Preparation and Submission," the parameters and guidelines state:

One-time costs and continuing costs that are reimbursable are limited to: A. Employee Salaries and Benefits ...

2. For continuing costs, excluding reprinting costs described in part V, paragraph B, 2 (a), unit costs must be claimed for each specified victim based on the following standard time:

- (a) 10 minutes – road officer's time related to the subject state mandates
- (b) 4 minutes – clerical's duties related to recording, filing, and/or data-processing
- (c) 2 minutes – dispatcher's time related to hospital verification<sup>[4]</sup>

Although the road officer's reimbursable duties are not stated in the parameters and guidelines, they can be deduced by eliminating the enumerated clerical and dispatcher duties. Thus, the road officer is responsible for (1) requesting victim's consent to notify a rape counseling center, and (2) furnishing the victim with a victim card.

Because the Legislature intended to provide the same level of service to domestic violence victims as to rape victims, the reimbursable activities for rape victims are substantially the same as the activity at issue, which is to "provide victim cards to victims of the following crimes..."<sup>5</sup>

More than delivering a victim card, the test claim statute's legislative intent was to convey information and provide access to services.<sup>6</sup> Thus, explaining the victim card and answering the victim's questions related to it realizes the intent of the test claim legislation.

Staff finds that the following activities from the 'Protocol' are reasonable methods of complying with the mandate, and therefore, staff added them under the ongoing activity to provide victim cards to victims:

- obtaining the card;
- giving the card to the victim;

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<sup>4</sup> The executive summary of the proposed amended parameters and guidelines, adopted in December 1996, states: "Commission staff requested documentary evidence from interested parties identifying necessary revisions to the standard times. Responses received from Department of Finance and San Bernardino County agreed with continued usage of current standard times. Mr. David Wellhouse, Wellhouse and Associates, verbally responded that smaller jurisdictions do not keep an accounting of actual time in order to furnish documentary evidence; therefore, none were forthcoming at this time. Consequently, staff recommends that the existing standard times remain in effect."

<sup>5</sup> Domestic Violence Arrests and Victim Assistance Statement of Decision (98-TC-14), adopted December 9, 2004, page 26.

<sup>6</sup> According to the Assembly Floor Analysis, *supra*, "AB 1201 intends to provide victims of domestic violence the same information on access to counseling and services as is provided in current law for victims of rape and sexual assault. Abusive behavior arises out of relationships and domestic violence can devastate the lives of victims. These victims deserve access to counseling and services that helps them put their lives back together or take steps to protect themselves. [¶]...[¶] It makes common sense to provide victims access to counseling services before an abusive relationship leads to rape or other violent crimes."

- explaining to the victim what the card is and how the victim could use the card;
- addressing questions about the card and shelters; and
- if necessary, providing an interpreter at the scene to communicate with the victim.

An officer's time for investigating and arresting the accused is not reimbursable.

Time Study Language

In its comments to the draft staff analysis, the claimant requested that the following language be included in this section:

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The SCO has a pending request for time study language to be included in all parameters and guidelines. The claimant believes that time studies are an alternate way of developing unit costs and is currently carrying out a time study for this purpose. Therefore, staff included the time study language.

***V. Claim Preparation and Submission***

Reasonable Reimbursement Methodology for One-Time Activities

Under this section, the claimant proposed the following reasonable reimbursement methodology for the proposed one-time activities:

- a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

Government Code section 17518.5, subdivision (a), states:

"Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:

- (1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.
- (2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

The SCO commented that the claimant did not substantiate its proposal. Accordingly, on January 27, 2006, Commission staff issued a letter requesting the claimant to submit written

evidence to justify its proposal and demonstrate that it is representative of all counties in the state. On April 4, 2006, the claimant submitted two declarations from the county's Sheriff's Department to support its proposal.

Suzanne Palmer Ferrell, Deputy, Domestic Violence Liaison for the Sheriff's Department in the County of Los Angeles declared the following:

...that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to verify each facility and phone number to ensure that the shelter is open and the phone number is still good.

...that it is my information and belief that in order to update the card pursuant to the test claim legislation, I am required to find out if additional shelters have opened since the last update of the card.

...that it is my information and belief that based on my experience, education, and training that the time necessary to add the statements in the response policy as set forth in Penal Code section 13701 (c)(7) is two hours.

...that it is my information and belief that based on my experience, education, and training that the time necessary to add the contact information to the response policy as set forth in Penal Code section 13701 (c)(9)(D) is four hours.

...that it is my information and belief that based on my experience, education, and training that the time necessary to amend the victim card provision in the response policy and revise the cards for reprinting as set forth in Penal Code section 13701 (c)(9)(H) is three hours.<sup>7</sup>

Glen Dragovich, Assistant Division Director of Administrative Services for the Sheriff's Department in the County of Los Angeles declared:

...that it is my information and belief that one-time reimbursable cost of \$600 will be incurred to:

Revise and print victim cards to add the following new information:  
(1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.  
(Section 13701, subd. (c)(9)(H)(i) & (iv)).

...that it is my information and belief that one-time reimbursable costs of \$300 will be incurred to add statements in the response policy.<sup>8</sup>

The declarations submitted by the claimant to justify its proposal were provided by individuals employed by the Sheriff's Department in the County of Los Angeles. Staff finds that the declarations do not demonstrate that the proposed reasonable reimbursement methodology meets the conditions required by Government Code section 17518.5, because there is no evidence in the record that the proposed amount is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for 50 percent or more of eligible local agencies.

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<sup>7</sup> Exhibit F, page 182.

<sup>8</sup> Exhibit F, page 188.

Therefore, based on the evidence in the record, staff recommends the actual cost methodology for the three one-time activities.

#### Reasonable Reimbursement Methodology for Ongoing Activity

Government Code section 17518.5 states that a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state. Here, the claimant proposed a unit time of 10 minutes per incident for the ongoing activity of providing victim cards to specified victims. In its comments dated April 4, 2006, the claimant argued that: "...the standard time of 10 minutes for a road officer to provide the required services...is the same as the established standard time used in the current parameters and guidelines...for the Rape Victim Counseling Center Notice program...[Fn. Omitted]."

The proposed unit time must satisfy the conditions in Government Code section 17518.5, subdivision (a). Thus, the issue is whether 10 minutes represents an appropriate reasonable reimbursement methodology under Government Code section 17518.5.

Staff acknowledges that the *Rape Victim Counseling Center Notice* program includes a unit time of 10 minutes for a road officer's time to: 1) request the victim's consent to notify a rape counseling center, and 2) furnish the victim with a victim card. However, there is now an intervening statute in Government Code section 17518.5, which was not in effect at the time the parameters and guidelines for the *Rape Victim Counseling Center Notice* program was adopted in 1996. Thus, staff finds that the declarations do not demonstrate that the proposed unit time of 10 minutes meets the conditions required by Government Code section 17518.5, because there is no evidence in the record that the proposed amount is estimated to fully offset the projected costs to implement the mandate in a cost-efficient manner for 50 percent or more of eligible local agencies.

Therefore, based on the evidence in the record, staff recommends the actual cost methodology for the ongoing activity.

In its comments dated September 26, 2006, DOF supported the staff recommendation for reimbursement based on actual costs. DOF also stated that:

In the interest of streamlining the claims process, we plan to review submitted claims on an ongoing basis and may, at a later date, propose amendments to the adopted parameters and guidelines that may include the use of a reasonable reimbursement methodology.<sup>9</sup>

#### Direct Cost Reporting

Direct cost elements must be identified for each reimbursable activity identified in Section IV. of the parameters and guidelines. However, staff notes that the cost elements for travel and training were not included because training is not a reimbursable activity and travel costs should not be incurred.

#### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed parameters and guidelines for the *Domestic Violence Arrests and Victim Assistance* program, beginning on page 11. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

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<sup>9</sup> Exhibit I.

## PROPOSED PARAMETERS AND GUIDELINES

Penal Code Sections 264.2, ~~13519~~, and 13701

Statutes of 1998, Chapters 698, ~~701~~, and 702

*Domestic Violence Arrests and Victim Assistance* (98-TC-14)

County of Los Angeles, Claimant

### I. SUMMARY OF THE MANDATE

On December 9, 2004, the Commission on State Mandates (Commission) decided that adopted the Statement of Decision finding that Penal Code section 13701, subdivision (c)(9)(D) and (H) (as amended by Statutes of 1998, Chapter ch. 702), and Penal Code section 264.2, subdivision (a) (as amended by Statutes of 1998, Chapter ch. 698), impose a reimbursable state-mandated program upon local governments agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Providing victim cards to victims for the following crimes: (1) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).
- The one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).
- The one-time cost of adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out (Section 13701, subd. (c)(9)(H)).
- The one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered-women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (c)(9)(H)(i) & (iv)).

If the Legislature does not suspend the *Domestic Violence* mandate program (CSM 4222, Statutes of 1984, Chapter 1609), the activities, underlined below, pursuant to Penal Code section 13701, subd. (c)(7) and Penal Code section 13701, subd. (c)(9)(D) are reimbursable:

- (subd. (c)(7)): ~~Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal and assistance in safe passage out of the victim's residence."~~
- (subd. (c)(9)(D)): ~~Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229."~~

## II. ELIGIBLE CLAIMANTS

~~The eligible claimants are any county, city, city and county, school district, or community college district. Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.~~

## III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (c), as amended by Statutes 1998, chapter 681, states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The County of Los Angeles filed the subject test claim to recover law enforcement agency 'costs mandated by the State', as defined by Government Code Section 17514, was filed by the County of Los Angeles on May 21, 1999, and would have permitted the recovery of costs effective on and after July 1, 1997 had the test claim legislation been effective on that date establishing eligibility for fiscal year 1997-1998. However, the effective and operative date of the test claim legislation (Chapter 698, Statutes of 1998 as joined with Chapter 701, Statutes of 1998 and Chapter 702, Statutes of 1998) was enacted on September 22, 1998 and became effective on is January 1, 1999. Accordingly, reimbursement for local law enforcement costs begins on the test claim legislation's effective date of costs incurred for compliance with Penal Code sections 264.2 and 13701, as amended by Statutes 1998, chapters 698 and 702, are reimbursable on or after January 1, 1999, as this date is within the period specified in Government Code section 17557.~~

~~Actual costs, including those costs deemed to be actual costs under Government Code section 17518.5, 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)(1)(A), all claims for reimbursement of initial fiscal year's costs shall be submitted to the State Controller within 120 days of notification by the State Controller of the issuance date of for the claiming instructions.~~

~~If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

~~There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.~~

## IV. REIMBURSABLE ACTIVITIES

~~To be eligible for mandated cost reimbursement for any given 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. Supporting documents may include, but are not limited to, employee time records or time logs, sign-in~~

sheets, 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. 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 (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. 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.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

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.

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

A. One-time Activities

1. ~~The one-time cost of p~~Printing victim cards to add the following new information: (1 a) phone numbers and/or local county hotlines of battered-women shelters; and (2 b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).~~
2. ~~The one-time cost of a~~Adding to the domestic violence response policy two new crimes (Section 243, subd. (e), & 273.5) to those for which a victim card is given out ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)).~~
3. ~~The one-time cost of a~~Adding the following to the description of the victim card in the domestic violence response policy: (1 a) phone numbers and/or local county hotlines of battered-women shelters; and (2 b) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. ~~(Section Pen. Code, § 13701, subd. (c)(9)(H)(i) & (iv)).~~

B. Continuing Ongoing Activities

1. Providing victim cards to victims for the following crimes (Pen. Code, § 264.2, subd. (a)): (1 a) Penal eCode section 243, subdivision (e); - battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship; and b) Penal Code section 273.5; - willful infliction of

corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).

Providing victim cards to victims include the following reimbursable activities:

- a. Obtaining the card.
- b. Giving the card to the victim.
- c. Explaining to the victim what the card is and how the victim could use the card.
- d. Addressing questions about the card and shelters.
- e. If necessary, providing an interpreter at the scene to communicate with the victim.

An officer's time for investigating and arresting the accused is not reimbursable.

2. ~~When Chapter 1609, Statutes of 1984 is not suspended in the State Budget Act under the provisions of Government Code section 17581, the following services (5) under Penal Code section 13701, subd. (e)(7) and Penal Code section 13701, subd. (e)(9)(D) as underlined below is reimbursable:~~

~~a.(subd. (e)(7)): Include standards for "Emergency Assistance of Victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence."~~

~~b.(subd. (e)(9)(D)): Include in written information given to the victim "A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229.""~~

## V. 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.

1. ~~The following requirements govern claiming costs under the "reasonable reimbursement methodology" pursuant to Government Code Section 17518.5.~~

### One-time Costs

~~A claimant may elect either to claim actual one-time printing, policy and related costs, as provided herein, or claim such one-time costs using a uniform cost allowance:~~

- ~~a. \$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).~~
- ~~b. \$600 allowance for the one-time cost of printing victim cards to add the following new information: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim,~~



including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).

- e. ~~\$300 for the one-time cost of adding the following to the description of the victim card in the domestic violence response policy: (1) phone numbers and/or local county hotlines of battered women shelters; (2) a statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime. (Section 13701, subd. (e)(9)(H)(i) & (iv)).~~

#### Continuing Costs

A claimant may elect either to claim actual continuing costs, as provided herein, or claim such continuing costs using a standard time. Unit costs must be claimed for each specified victim, based on a standard time of 10 minutes of a road officer's time—the time required to provide victim cards to victims for the following crimes:

- (a) Penal code section 243, subdivision (e), battery against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, former spouse, fiancé, of fiancée, or a person with who, the defendant has, or previously had, a dating or engagement relationship
- (b) Penal Code section 273.5, willful infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (section 264.2, subd. (a)).

The standard time of 10 minutes is multiplied by the road officers' average productive hourly rate, including applicable indirect costs as specified in the attached Ps&Gs, and then multiplied by the total number of reported incidents regarding alleged violations (Penal Code section 243(e) and 273.5).

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

#### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

##### 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.

### 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.

## 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.

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 Circular 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.

2. The following requirements govern claiming costs under the actual cost methodology:

A. ~~Salaries and Benefits~~

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

~~The source documents required to be maintained, by the claimant may include, but are not limited to, employee timecards and/or cost allocation reports.~~

B. ~~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.~~

~~The source documents required to be maintained by the claimant may include, but are not limited to, invoices, lease documentation and other documents evidencing the validity of the expenditure.~~

C. ~~Contracted Services~~

~~List costs incurred for contract services, including legal counsel for the development and operation of the mandated program and indirect costs, computed in accordance with OMB A-87 as described in Section V.G. [below], for administration of reimbursable contract[s]. Use of contract services must be justified by the claimant.~~

~~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 invoices with the claim and a description of the contract scope of services.~~

D. ~~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.

The source documents required to be maintained by the claimant may include, but are not limited to, contracts, charges, invoices, and statements.

#### ~~E. 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 V.A. Salaries and Benefits, for each applicable reimbursable activity.

#### ~~F. 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 V.A., Salaries and Benefits, and V.B., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element V.C., 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.

#### ~~G. 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 (1) the overhead costs of the unit performing the mandate or (2) the indirect costs of administering reimbursable contract(s), or (3) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A87. Claimants have the option of using 10% of labor, excluding fringe benefits, or, where applicable, 10% of the amount of reimbursable contract(s), if 50% or more of all reimbursable services are provided under contract, 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 and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B).

## **VI. RECORD 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 chapter<sup>1</sup> 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 IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING REVENUES SAVINGS AND OTHER 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 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 CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform ~~with the statute or executive order creating the mandate and~~ to the parameters and guidelines adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to ~~the statute or executive order creating the mandate and~~ the parameters and guidelines adopted as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

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

**X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

*Commission on State Mandates*

Original List Date: 11/17/2003  
Last Updated: 5/19/2006  
List Print Date: 09/22/2006  
Claim Number: 98-TC-14  
Issue: Domestic Violence Arrests and Victim Assistance

Mailing Information: Final Staff Analysis

**Mailing List**

**TO ALL PARTIES AND INTERESTED PARTIES:**

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, § 1181.2.)

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