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June 19, 2020
**Commission on
State Mandates**

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June 19, 2020

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

Response to Test Claim 19-TC-02, Accomplice Liability for Felony Murder

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed Test Claim 19-TC-02 submitted to the Commission on State Mandates (Commission) by the County of Los Angeles (Claimant). The Claimant alleges there are state-mandated, reimbursable costs associated with Chapter 1015, Statutes of 2018 (SB 1437).

California's felony murder rule creates liability for murder for actors and their accomplices who kill another person during the commission of a felony. The felony murder statute has been applied even when a death was accidental, unintentional, or unforeseen but occurred during the course of certain crimes. In *People v. Dillon*, the California Supreme Court commented on the necessity to fix the interpretation of the statute, and the Legislature recognized that there was a need for a statutory change to the felony murder rule to more equitably sentence persons in accordance with their involvement in the crime.

SB 1437, Chapter 1015, Statutes of 2018 added Penal Code § 1170.95 and became effective on January 1, 2019. SB 1437 makes it unlawful for a person to be held liable for murder if that person did not act with careless disregard or indifference to human life and did not kill or intend to kill the victim. The law also makes it possible for those in prison for felony murder to petition for resentencing. If the court determines the petitioner has proven the prima facie showing he/she qualifies for a resentencing hearing, the petitioner can request to be appointed counsel for the hearing, and the District Attorney's Office has the burden of showing the petitioner had the intent to kill. As a result of SB 1437, the Claimant is seeking reimbursement for the increased costs incurred by the Public Defender's Office and the District Attorney's Office to prepare for and appear at resentencing hearings. The claimant reports a cost of \$1,798,780 for fiscal year 2018-19 and estimates it will incur a cost of \$1,767,447 in 2019-20 to comply with SB 1437.

Government Code section 17556 directs the Commission to determine costs are not mandated by the state if certain criteria are met, as outlined in the statute. Finance believes SB 1437 is subject to Government Code section 17556, subdivision (g), the "crimes and infractions" exclusion since SB 1437 changed the application of and the penalty for the felony murder rule. Accordingly, the Commission should deny this claim because SB 1437 does not impose costs mandated by the state

Sincerely,

Chris Hill 4/

ERIKA LI
Program Budget Manager

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 June 19, 2020, I served the:

- **Finance's Comments on the Test Claim filed June 19, 2020**

Accomplice Liability for Felony Murder, 19-TC-02

Penal Code Sections 188, 189, and 1170.95; Statutes 2018, Chapter 1015 (SB 1437)

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 June 19, 2020 at Sacramento, California.

Lorenzo Duran

Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/22/20

Claim Number: 19-TC-02

Matter: Accomplice Liability for Felony Murder

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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