



July 1, 2024

Ms. Erika Contreras
Secretary of the Senate
California State Legislature
State Capitol, Room 3044
Sacramento, California 95814

Ms. Sue Parker
Chief Clerk of the Assembly
California State Legislature
State Capitol, Room 3196
Sacramento, California 95814

**Re: Commission on State Mandates–Report to the Legislature: Approved
Mandate Claims**

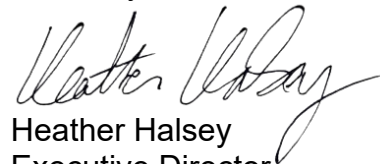
Dear Ms. Contreras and Ms. Parker:

Enclosed is the Commission on State Mandates' Report to the Legislature on Approved Mandate Claims required by Government Code section 17600.

Section 17600 requires the Commission, at least twice each calendar year, to report to the Legislature on the number of mandates it has found pursuant to Article 1 (commencing with Section 17550) and the estimated statewide costs of these mandates. The enclosed report includes the mandates for which a statewide cost estimate was adopted between January 1, 2024 and June 30, 2024 and provides information on pending parameters and guidelines, reasonable reimbursement methodologies, and statewide cost estimates as a result of approved test claims.

Please contact me at (916) 323-3562 if you have questions or need further information.

Sincerely,



Heather Halsey
Executive Director

Enclosure

cc: w/encl.

Honorable Anna Caballero, Chair, Senate Appropriations Committee
Honorable Scott Wiener, Chair, Senate Budget and Fiscal Review Committee
Honorable Buffy Wicks, Chair, Assembly Appropriations Committee
Honorable Jesse Gabriel, Chair, Assembly Budget Committee
Mr. Gabriel Petek, Legislative Analyst, Legislative Analyst's Office
Ms. Cara L. Jenkins, Legislative Counsel, Office of Legislative Counsel

STATE *of* CALIFORNIA
**COMMISSION ON STATE
MANDATES**



**REPORT TO THE LEGISLATURE:
APPROVED MANDATE CLAIMS**

January 1, 2024 – June 30, 2024

Joe Stephenshaw
Chairperson
Director of the
Department of
Finance

Fiona Ma
Vice Chairperson
State Treasurer

Maila Cohen
State Controller

Samuel Assefa
Director of the
Office of Planning
and Research

Vacant
Public Member

Lee Adams
County Supervisor
County of Sierra

Renee Nash
School District Board Member
Eureka Union School District

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to resolve disputes over the existence of state-mandated local programs and costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvented to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program (Gov. Code, § 17553).

Alternative Processes

Government Code section 17557.1 and 17557.2 provide an alternate process for determining the amount to be subvented for mandated programs. Under 17557.1, local governments and the Department of Finance may jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Government Code section 17557.2 requires that joint RRMs have broad support and, if approved, they remain in effect for five years unless otherwise specified. Jointly developed RRMs and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature. To date, only one jointly developed RRM has ever been approved and it expired and was not extended by the parties so the Commission adopted parameters and guidelines for that program.

Government Code sections 17572 and 17573 provide another alternative process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the caseload backlog. To date, this process has not been successfully utilized.

Report to the Legislature

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.³ In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the process for completion of reasonable reimbursement methodologies.

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

The Legislature

Upon receipt of the report submitted by the Commission pursuant to Government Code Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.⁴

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.⁵

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an

³ Government Code section 17600.

⁴ Government Code section 17612(a).

⁵ Government Code section 17612(b).

action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁶ Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.⁷

If the amount the Legislature appropriates is insufficient to pay all of the reimbursement claims filed and approved for reimbursement, the Controller will prorate the claims.⁸ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

II. NEW MANDATES

The following table shows the Statewide Cost Estimates that were adopted during the period of January 1, 2024 through June 30, 2024.

**Statewide Cost Estimates (SCE) Adopted
During the Period of January 1, 2024 through June 30, 2024**

<i>Adoption Date, Claim Name and Number, and Initial Claiming Period</i>			<i>Estimated Costs for Initial Claiming Period</i>			<i>Estimated Future Annual Costs</i>
Date	Test Claim Name and Number	Initial Claiming Period	Education (K-14)	Local Agency	Totals	Estimated Totals
3/22/24	<i>Juveniles: Custodial Interrogation, 21-TC-01</i>	Second Half Fiscal Year 2020-2021 and Fiscal Year 2021-2022	-	\$36,766 - \$1,192,335	\$36,766 - \$1,192,335	\$19,537 - \$1,037,921 ⁹ for Fiscal Year 2022-2023 and Following
TOTAL			-	\$36,766 - \$1,192,335	\$36,766 - \$1,192,335	

⁶ Government Code section 17612(c).

⁷ Government Code section 17561.5(a).

⁸ Government Code section 17567.

⁹ Plus the implicit price deflator.

III. PENDING PARAMETERS AND GUIDELINES, REQUESTS TO AMEND PARAMETERS AND GUIDELINES, AND STATEWIDE COST ESTIMATES CASELOAD

Following are tables showing parameters and guidelines, requests to amend parameters and guidelines, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5 – which is distinct from the jointly proposed RRM, discussed above under “Alternative Processes.” These requests are often disputed by one or more of the parties and interested parties. There is one pending parameters and guidelines for which the claimants plan to propose an RRM: *Discharge of Stormwater Runoff*, 07-TC-09-R*.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>Public School Restrooms: Menstrual Products</i> , 22-TC-04†	Tentatively scheduled for hearing on 7/26/24
2.	<i>Free Application for Federal Student Aid</i> , 22-TC-05†	Tentatively scheduled for hearing on 7/26/24
3.	<i>Discharge of Stormwater Runoff</i> , 07-TC-09-R*	Notice of Waiver of Procedural Requirements, Extension Request Approval, and Postponement of Hearing issued October 5, 2023 and March 29, 2024 Finance, Controller, and Water Boards comments due 9/30/24 Tentatively scheduled for hearing on 3/28/25

* Local agency programs

† School district or community college district programs

B. Pending Requests for Parameters and Guidelines Amendments

There are no pending requests for Parameters and Guidelines Amendments.

* Local agency programs

† School district or community college district programs

C. Pending Statewide Cost Estimates

	Program	Status
1.	<i>California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections XI.4, XIII.1, XIII.4, XIII.7, XVIII.B.8, and XVIII.B.9, Adopted May 22, 2009</i> , 09-TC-03*	Estimated date that claims data will be received from the Controller: 5/27/24 Tentatively scheduled for hearing on 7/26/24
2.	<i>California Regional Water Quality Control Board, San Diego Region,</i>	Estimated date that claims data will be received from the Controller: 9/23/24

	Program	Status
	<i>Order No. R9-2009-0002, Sections D.2.; F.1.d.7.i.; F.4.b.; G.6.; K.1.b.4.n.; K.3.a.3.c.; J.1.; J.3.; J.4.; and Attachment D, Section D-2, Adopted December 16, 2009, 10-TC-11*</i>	Tentatively scheduled for hearing on 11/22/24
3.	<i>California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, 11-TC-03*</i>	Estimated date that claims data will be received from the Controller: 9/26/24 Tentatively scheduled for hearing on 11/22/24
4.	<i>California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, 10-TC-07*</i>	Estimated date that claims data will be received from the Controller: 1/20/25 Tentatively scheduled for hearing on 3/28/25

* Local agency programs

† School district or community college district programs

IV. PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES OR LEGISLATIVELY-DETERMINED MANDATES

There are currently no pending joint reasonable reimbursement methodologies (RRMs) or legislatively determined mandates.

Government Code section 17600 requires the Commission to report any delays in the process for joint RRM or LDMs being developed by Department of Finance and local entities and for RRM proposed by any party pursuant to Government Code section 17518.5. There are currently no pending joint RRM, LDM or RRM proposed by any party. Therefore, there are no delays in these processes.

With regard to RRM included in parameters and guidelines or amendments thereto pursuant to Government Code sections 17557 and 17518.5, there is one pending parameters and guidelines for which the claimants plan to propose an RRM: *Discharge of Stormwater Runoff, 07-TC-09-R**.

V. STATEWIDE COST ESTIMATES

A. *Juveniles: Custodial Interrogation, 21-TC-01*

Adopted: March 22, 2024

STATEWIDE COST ESTIMATE

\$36,766 - \$1,192,335

Initial Claim Period

(Second Half Fiscal Year 2020-2021 and Fiscal Year 2021-2022)

\$19,537 - \$1,037,921, Plus the Implicit Price Deflator

Fiscal Year 2022-2023 and Following

Welfare and Institutions Code Section 625.6
as Amended by Statutes 2020, Chapter 335 (SB 203)

Juveniles: Custodial Interrogation

21-TC-01

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent by a vote of 6-0 during a regularly scheduled hearing on March 22, 2024 as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Deborah Gallegos, Representative of the State Controller	Yes
Jennifer Holman, Representative of the Director of the Office of Planning and Research	Yes
Renee Nash, School District Board Member	Yes
William Pahland, Representative of the State Treasurer, Vice Chairperson	Yes
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	Yes

STAFF ANALYSIS

Summary of the Mandate, Eligible Claimants, and Period of Reimbursement

Welfare and Institutions Code section 625.6, as amended by Statutes 2020, chapter 335 (SB 203), requires law enforcement to ensure that youths, 16 and 17 years old, consult with legal counsel prior to custodial interrogation and before the waiver of any *Miranda* rights.

The Commission adopted the Test Claim Decision on January 27, 2023, and the Decision and Parameters and Guidelines on March 24, 2023, approving reimbursement for any city, county, or city and county that incurs increased costs as a result of this mandate.

The initial reimbursement period is January 1, 2021 through June 30, 2022 (second half of fiscal year 2020-2021 and fiscal year 2021-2022). Eligible claimants were required to

file initial claims with the State Controller's Office (Controller) by October 24, 2023. Late initial reimbursement claims may be filed until October 24, 2024, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.¹

Reimbursable Activity

The Commission approved the following reimbursable activity for this program:

- Ensure that youths, ages 16 and 17, *except for those who affirmatively request to consult with retained legal counsel*, consult with legal counsel prior to custodial interrogation and before the waiver of any *Miranda* rights. In instances where the youth does not exercise their right to retain a private attorney, this includes providing legal counsel to consult with the youth in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any *Miranda* rights.²

Reimbursement is not required in the following situations:

- When the 16- or 17-year-old affirmatively requests to consult with retained private counsel prior to interrogation and before waiver of any *Miranda* rights, which is required by existing state and federal law.³
- For school districts or community college districts, who are authorized but not required by state law to employ peace officers.⁴
- When the officer who questioned the youth reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat and the officer's questions were limited to those questions that were reasonably necessary to obtain that information.⁵
- In the normal performance of a probation officer's duties under Welfare and Institutions Code section 625, 627.5, or 628.⁶

Offsetting Revenues and Reimbursements

The Parameters and Guidelines specify that any offsetting revenue 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

¹ Government Code section 17561(d)(3).

² Welfare and Institutions Code section 625.6(a).

³ Welfare and Institutions Code sections 625, 627.5; *Miranda v. Arizona* (1966) 384 U.S. 436, 470-473.

⁴ *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355, 1367-1368.

⁵ Welfare and Institutions Code section 625.6(c)(2).

⁶ Welfare and Institutions Code section 625.6(d).

fees collected, federal funds, other state funds, and other funds that are not the claimant's proceeds of taxes shall be identified and deducted from this claim. Such offsetting revenue or reimbursement includes the following:

- Funding appropriated from the General Fund by Statutes 2020, chapter 92 (AB 1869) to backfill a county for the revenue lost due to the repeal of former Penal Code section 987.4 and former Government Code section 27712, which provided funding for the costs of defense counsel and legal assistance in criminal proceedings, to the extent that the funds are used to offset a county's costs to comply with the mandate.
- Funding made available to counties pursuant to Penal Code section 987.6 for providing legal assistance for persons charged with violations of state criminal law or involuntarily detained under the Lanterman-Petris-Short Act and used to offset a county's costs to comply with the mandate.

Statewide Cost Estimate

Staff reviewed seven unaudited reimbursement claims submitted by five county claimants and compiled by the Controller and developed the Statewide Cost Estimate based on the assumptions and methodology discussed herein.⁷ Table 1 and Table 2, below, summarize the costs for the initial reimbursement period and the cost estimates for the next fiscal year, respectively.

**Table 1. Initial Reimbursement Period Cost Estimate
(FYs 2020-2021 through 2021-2022)**

<p>Ensure that youths, ages 16 and 17, <i>except for those who affirmatively request to consult with retained legal counsel</i>, consult with legal counsel prior to custodial interrogation and before the waiver of any <i>Miranda</i> rights. In instances where the youth does not exercise their right to retain a private attorney, this includes providing legal counsel to consult with the youth in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any <i>Miranda</i> rights.</p> <p>Reimbursement is not required in the following situations:</p> <ul style="list-style-type: none"> • When the 16 or 17 year old affirmatively requests to consult with retained private counsel prior to interrogation and before waiver of any <i>Miranda</i> rights, which is required by existing state and federal law. • For school districts or community college districts, who are authorized but not required by state law to employ peace officers. 	<p>\$32,530 - \$1,132,322</p>
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⁷ The claimants include: the Counties of Los Angeles, San Diego, Orange, Santa Clara, and San Mateo.

<ul style="list-style-type: none"> • When the officer who questioned the youth reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat and the officer's questions were limited to those questions that were reasonably necessary to obtain that information. • In the normal performance of a probation officer's duties under Welfare and Institutions Code section 625, 627.5, or 628 	
Indirect Costs	\$4,236 - \$192,495
Offsetting Revenues or Other Reimbursements	(\$0)
10 Percent Late Filing Penalty	(\$0 - \$132,482)
Total Costs Claimed	\$36,766 - \$1,192,335

Table 2. Estimated Annual Costs for Fiscal Year 2022-2023 and Following

Direct Costs for the Activity	\$16,698 - \$887,112
Indirect Costs	\$2,839 - \$150,809
Offsetting Revenues	(\$0)
Total Costs	\$19,537 - \$1,037,921

Assumptions

1. The amount claimed for the initial reimbursement period may increase if late or amended claims are filed. Only five of 58 eligible county claimants (9 percent of counties) filed claims for the initial reimbursement period, and no cities filed a claim.⁸ There are two parts of the reimbursable activity, each performed by a different

⁸ This Statewide Cost Estimate assumes there are 394 eligible claimants to claim reimbursement for law enforcement costs to “ensure that youths, ages 16 and 17, *except for those who affirmatively request to consult with retained legal counsel*, consult with legal counsel prior to custodial interrogation and before the waiver of any *Miranda* rights.” All 58 counties have law enforcement agencies (see Cal. Const., art. XI, § 1(b)) and 336 of 481 cities have their own law enforcement agencies. (Exhibit D (10), U.S. Department of Justice, Census of State and Local Law Enforcement Agencies, 2018 – Statistical Tables, October 2022, page 5.) This statewide cost estimate also assumes there are 58 eligible county claimants to claim reimbursement to provide indigent “legal counsel to consult with the youth in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any *Miranda* rights.” While cities may, with the permission of the district attorney, prosecute crimes committed in their jurisdictions, there is no reciprocal ability or requirement for a city to provide indigent defense services. (Gov. Code, §§ 41803.5, 27706.)

department or agency: (1) for law enforcement to “ensure that youths, ages 16 and 17, except for those who affirmatively request to consult with retained legal counsel, consult with legal counsel prior to custodial interrogation and before the waiver of any *Miranda* rights,” and (2) for legal counsel to “consult with the youth in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any *Miranda* rights.”⁹ The only costs claimed were for county indigent defense counsel providing the consultation under the second part of the activity. No cities or counties claimed costs for law enforcement costs under the first part of the activity. Thus, the remaining 53 eligible counties and 336 cities with law enforcement agencies may still file late claims, if they are able to reach the \$1,000 threshold to file, and the five claimants that timely filed may file amended initial claims for additional costs.

2. The County of San Diego claimed costs for attorney time for a full shift as “stand by time.”¹⁰ This activity is not reimbursable. The Commission’s Test Claim Decision states the following:

The claimant also requests reimbursement for other components of its Juvenile Miranda Duty program, which is staffed by Public Defender attorneys who are available 24 hours a day. [Citation omitted.] Providing 24 hour services is not required by the test claim statute, but may be proposed for inclusion in the Parameters and Guidelines, and may be approved by the Commission *if* the activity is supported by evidence in the record showing it is “reasonably necessary for the performance of the state-mandated program” in accordance with Government Code section 17557(a), and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.¹¹

There was no request made during the Parameters and Guidelines phase to reimburse attorney stand by time as a reasonably necessary activity to comply with the mandate imposed by the 2020 test claim statute, and the Parameters and Guidelines do not authorize reimbursement for attorney stand by time.¹² Thus, only

⁹ Exhibit A, Test Claim Decision, adopted January 27, 2023, pages 24-26. See also, Exhibit A, Test Claim Decision, adopted January 27, 2023, pages 25-26, citing to Exhibit D (1), Assembly Committee on Appropriations, Analysis of SB 203 (2019-2020 Regular Session), as amended July 27, 2020, page 1.

¹⁰ Exhibit D (5), County of San Diego, *Juveniles: Custodial Interrogation*, 21-TC-01 Reimbursement Claim FY 2020-21, pages 6-13; Exhibit D (6), County of San Diego, *Juveniles: Custodial Interrogation*, 21-TC-01 Reimbursement Claim FY 2021-22, pages 6-17.

¹¹ Exhibit A, Test Claim Decision, adopted January 27, 2023, page 26.

¹² Exhibit B, Decision and Parameters and Guidelines, adopted March 24, 2023, page 10. Moreover, prior law (Welfare and Institutions Code section 625.6, as added by Statutes 2017, chapter 681), imposed the same requirements for “youth[s] 15 years or

those attorney hours attributed to “phone time” the County of San Diego spent in the performance of the reimbursable activity to actually consult with a youth have been used in the direct and indirect claimed costs and projected direct and indirect cost calculations.

3. The County of San Mateo provided the consultation services through a contract and so no indirect costs were claimed. Thus, the costs claimed by the County of San Mateo are included in the amount of costs actually claimed, but not included in the projected direct and indirect cost calculations for law enforcement and attorney costs.
4. The statewide costs will vary from year to year, depending on the number of unrepresented youths, 16 and 17 years old, who are subject to the custodial interrogation mandate. The four County claimants who filed reimbursement claims claimed costs for 363 youths, 16 and 17 years old, during the initial claiming period (second half of fiscal year 2020-2021 and fiscal year 2021-2022). In estimating the costs of the proposed legislation, the Legislature relied on arrest numbers.¹³ This Statewide Cost Estimate also relies on arrest numbers because the actual number of youths, 16 and 17 years old, that were subject to custodial interrogation under the test claim statute is unknown.
5. According to the California Department of Justice (DOJ), in 2021, the number of reported statewide arrests of youths ages 15-17 was 14,535.¹⁴ Using population by age data and assuming a consistent distribution, 9,647 youths, 16 and 17 years old, were arrested statewide in 2021.¹⁵ In 2022, the number of reported statewide arrests of youths ages 15-17 was 18,734.¹⁶ Again, making the same calculation, 12,364 youths, 16 and 17 years old, were arrested statewide in 2022.¹⁷ Thus, demonstrating fairly consistent arrest numbers over the three year period.¹⁸

younger.” (Exhibit A, Test Claim Decision, adopted January 27, 2023, page 34.) There was no test claim filed on the 2017 statute.

¹³ Exhibit D (1), Assembly Committee on Appropriations, Analysis of SB 203 (2019-2020 Regular Session), as amended July 27, 2020, page 1.

¹⁴ Exhibit D (3), California Department of Justice, 2021 Juvenile Justice in California, page 70.

¹⁵ Exhibit D (3), California Department of Justice, 2021 Juvenile Justice in California, page 112.

¹⁶ Exhibit D (4), California Department of Justice, 2022 Juvenile Justice in California, page 70.

¹⁷ Exhibit D (4), California Department of Justice, 2022 Juvenile Justice in California, page 112.

¹⁸ Although the arrest data appears to go up in 2022, it is returning to 2020 levels where the statewide number of arrests of youths ages 15-17 was 19,540. Exhibit D (2), California Department of Justice, 2020 Juvenile Justice in California, page 70.

Assuming consistent annual distribution, 4,823 youths were arrested during the second half of fiscal year 2020-2021. In fiscal year 2021-2022, 11,006 youths were arrested statewide (4823.5 (1/2 of 9,647) + 6182 (1/2 of 12,364) and, thus, a total of 15,829 youths, 16 and 17 years old, were arrested during the initial claiming period.

Assuming consistent annual distribution and doubling the arrest during the first half of fiscal year 2022-2023 (6,182) then, 12,364 youths, 16 and 17 years old, are projected to be arrested statewide in fiscal year 2022-2023.

6. Estimated initial and future year costs may be lower if counties and cities do not incur reimbursable costs of \$1,000. The test claim statute requires law enforcement to ensure that youths, 16 and 17 years old, consult with legal counsel prior to custodial interrogation and before the waiver of any Miranda rights except for those who affirmatively request to consult with retained private counsel.¹⁹ This requirement is not imposed on probation officers performing their duties under Welfare and Institutions Code section 625, 627.5, or 628, and the number of juveniles arrested during the initial period of reimbursement that were taken into custody by a probation officer is unknown. Section 625 authorizes probation officers to take temporary custody of minors without a warrant who are suspected of being habitually disobedient or truant under Welfare and Institutions Code section 601, or of who have violated a criminal law under Welfare and Institutions Code section 602.²⁰ Section 627.5 requires that a probation officer give a *Miranda* warning to

¹⁹ Exhibit A, Test Claim Decision, adopted January 27, 2023, pages 2-4.

²⁰ Welfare and Institutions Code section 625, citing sections 601 and 602. Welfare and Institutions Code section 602 states the following:

(a) Except as provided in Section 707 [when a juvenile is tried as an adult], any minor who is between 12 years of age and 17 years of age, inclusive, when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court.

(b) Any minor who is under 12 years of age when he or she is alleged to have committed any of the following offenses is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court:

- (1) Murder.
- (2) Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- (3) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- (4) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

minors already in temporary custody.²¹ Finally, Section 628 requires probation officers to immediately investigate the facts and circumstances surrounding why the minor was taken into temporary custody and release the minor to their parent or guardian unless the evidence supports that doing so is contrary to the minor's welfare and continued detention is warranted.²² Thus, the involvement of probation officers in the juvenile delinquency system and the exclusion of these activities from the mandate may explain the reason that so few claims were filed and able to meet the \$1,000 threshold, and may explain why only 363 16 and 17 year old youths were identified by the claimants as being subject to the mandate.²³

7. In the initial claims, the total claimed costs for the attorney consultations is \$25,024 and the number of youths who received consultations is 363. Thus, the cost per youth for a consultation is \$69. The average attorney salary claimed is \$146.85 per hour and the average time for a consultation is .47 hours per youth.

None of the initial claims included any costs for law enforcement officers to ensure that youths consult with counsel. In California, in 2022, the U.S. Bureau of Labor Statistics reports the mean hourly salary for the 70,090 Police and Sheriff's Patrol Officers was \$50.01²⁴ and for the 11,208 Detectives and Criminal Investigators was \$53.04.^{25 26} Thus, this statewide cost estimate uses an average hourly salary for law enforcement officers of \$50.43 or 84 cents per minute.

(5) Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

²¹ Welfare and Institutions Code section 627.5.

²² Welfare and Institutions Code section 628.

²³ Welfare and Institutions Code section 607.3.

²⁴ Exhibit D (9), U.S. Bureau of Labor Statistics, Occupational Employment and Wages Statistics, May 2022, 33-3051 Police and Sheriff's Patrol Officers, page 2 <https://www.bls.gov/oes/current/oes333051.htm#st> (accessed on December 13, 2023). This data includes police and sheriff's patrol officers from state and local government, the federal executive branch, colleges, universities, professional schools, and secondary and elementary schools.

²⁵ Exhibit D (8), U.S. Bureau of Labor Statistics, Occupational Employment and Wages Statistics, May 2022, 33-3021 Detectives and Criminal Investigators, page 2 <https://www.bls.gov/oes/current/oes333021.htm#st> (accessed on December 13, 2023). This data includes detectives and criminal investigators from state and local government, the federal executive branch, the postal service, colleges, universities, and professional schools.

²⁶ Although this data includes law enforcement salaries from the state, schools, and federal agencies, all the data is only from California and is still an accurate reflection of wages for local government, which would need to compete with other employers to attract potential law enforcement employees.

In the test claim, the County of Los Angeles explained that the law enforcement agencies in the County would contact the Public Defender to arrange Miranda consultations for juveniles prior to custodial interrogations.²⁷ Prior to allowing the juvenile to speak with counsel, and to “ensure” that the youth consults with legal counsel, the law enforcement officer obtains the name, State Bar number, contact number of the attorney, and time the call was made.²⁸ Thus, making the call to ensure compliance with the test claim statute is estimated to take a law enforcement officer about three minutes.

8. Estimated future annual costs will be lower if the claimants receive and apply offsetting revenues. While the Parameters and Guidelines identify several potential offsetting revenue sources, not all claimants receive those funds and those claimants that do, may not apply them to this program. Of the five initial claimants, none indicated that they used offsetting revenues for this program.
9. Actual costs may be lower if the Controller reduces any reimbursement claim for this program following an audit deeming the claim to be excessive or unreasonable, or not eligible for reimbursement.

Methodology

A. Initial Reimbursement Period Cost Estimate:

The low-end Statewide Cost Estimate for the initial reimbursement period (second half of fiscal year 2020-2021 and all of fiscal year 2021-2022) is based on 7 unaudited, actual reimbursement claims (3 claims filed for fiscal year 2020-2021 and 4 for fiscal year 2021-2022) totaling **\$36,766**. The high end of the estimated potential costs is **\$1,192,335** if all eligible claimants file claims, including law enforcement costs, for the initial reimbursement period.

Activity: The activity consists of ensuring that youths, ages 16 and 17, who do not affirmatively request to consult with retained legal counsel, consult with legal counsel in person, by telephone, or by video conference prior to custodial interrogation and before the waiver of any *Miranda* rights. The low end of the range is costs actually claimed for this activity. The high end assumes that all eligible claimants will file claims for this activity, including law enforcement and attorney consultation costs, and the costs are calculated as follows:

²⁷ Exhibit A, Test Claim Decision, adopted January 27, 2023, Declaration of Cris Mercurio, Head Deputy, County of Los Angeles Public Defender’s Office, page 17.

²⁸ Exhibit D (7), Los Angeles Sheriff’s Department Newsletter 18-02 - Custodial Interrogation of Juveniles, page 2. This document also indicates that the information obtained by the officer is recorded in an incident report. Documenting the information was not requested as reasonably necessary for the performance of the mandated activity pursuant to Government Code section 17557(a) and is not listed as a reimbursable activity in the Parameters and Guidelines.

Attorney Consultation Direct Costs:

1. Average Salary per Hour [\$146.85] x Average Consultation Time per Youth [.47] = Estimated Cost per Consultation [\$69]
2. Youths Arrested During the Initial Claiming Period [15,829] – Youths Actually Claimed [363] = Estimated Non-Filer Consultations [15,466]
3. Estimated Cost per Consultation [\$69] x Estimated Non-Filer Consultations [15,466] = Estimated Non-filer Direct Attorney Costs [\$1,067,154]
4. Direct Costs Claimed [\$25,279] + Estimated Non-filer Direct Costs that could be claimed in late claims [\$1,067,154] = Potential Direct Attorney Costs [\$1,092,433]

Law Enforcement Potential Direct Costs:

1. Average Salary per minute [\$0.84] x Minutes to Make Call [3] = Estimated Cost per Call [\$2.52]
2. Estimated Cost per Call [\$2.52] x Youths Actually Claimed [363] = Potential Direct Law Enforcement Costs that could be claimed in late claims by Claimants [\$915]
3. Estimated Cost per Call [\$2.52] x Estimated Non-Filer Consultations [15,466] = Potential Direct Law Enforcement Costs that could be claimed in late claims [\$38,974]
4. Potential Direct Law Enforcement Costs that could be claimed in late claims by Claimants [\$915] + Potential Direct Law Enforcement Costs that could be claimed in late claims [\$38,974] = Potential Direct Law Enforcement Costs [\$39,889]

Total Potential Direct Costs:

Potential Direct Attorney Costs [\$1,092,433] + Potential Direct Law Enforcement Costs [\$39,889] = Potential Direct Costs [\$1,132,322]

Indirect Costs: The low end of the range for indirect costs is those indirect costs actually claimed. The high end, in addition to indirect costs actually claimed, assumes that all eligible claimants who have not yet filed claims, including claiming law enforcement costs, will file claims for indirect costs at the same average rate actually claimed during the initial period of reimbursement, which is calculated as follows:

1. Indirect Costs Claimed [\$4,236] / Direct Costs Claimed [\$25,279] = Average Indirect Cost Rate [17%].

2. Average Indirect Cost Rate [17%] x Potential Direct Costs [\$1,132,322] = High End of Estimated Indirect Costs [\$192,495].²⁹

Offsetting Revenues: The low end of the range is \$0 because none of the initial claims compiled by the Controller included any offsetting revenues. The high end is also \$0 because there is no data upon which to make a projection.

Late Filing Penalties: The low end is \$0 because none of the initial claims compiled by the Controller were assessed a late filing penalty. The high end assumes that all eligible claimants will file claims for the initial period of reimbursement, including claiming law enforcement costs, which will be subject to a late filing penalty, and that penalty is calculated as follows:

1. Potential Direct Costs [\$1,132,322] + Estimated Indirect Costs [\$192,495] = Potential Total Costs [\$1,324,817]
2. Potential Total Costs [\$1,324,817] x (10% late filing penalty) = Estimated Late Filing Penalties [\$132,482].
3. Actual Late Filing Penalties [\$0] + Estimated Non-filer Late Filing Penalties [\$132,482] = High End of Estimated Late Filing Penalties [\$132,482].

B. Projected Annual Costs for Fiscal Year 2022-2023 and Following:

Beginning in fiscal year 2022-2023, future statewide costs are estimated to range from **\$19,537 to \$1,037,921** annually.

The low end of the range assumes that the same claimants that filed reimbursement claims for the initial period of reimbursement will continue to file annual reimbursement claims for only attorney consultation costs and that number of unrepresented youths, 16 and 17 years old, who are subject to custodial interrogation remains unchanged from the initial claims, as follows:

1. Average Salary per Hour [\$146.85] x Average Consultation Time per Youth [.47] = Estimated Cost per Consultation [\$69]
2. Youths Actually Claimed [363] / 1.5 (to account for the initial reimbursement period length of one and one-half years) = Estimated Youths Claimed Annually [242]
3. Estimated Cost per Consultation [\$69] x Estimated Youths Claimed Annually [242] = Annual Direct Attorney Costs [\$16,698]
4. Average Indirect Cost Rate [17%] x Annual Direct Attorney Costs [\$16,698] = Annual Indirect Costs [\$2,839].

²⁹ The Assembly Committee on Appropriations estimated annual program costs of \$2.2 million. Exhibit D (1), Assembly Committee on Appropriations, Analysis of SB 203 (2019-2020 Regular Session), as amended July 27, 2020, page 1.

5. Annual Direct Attorney Costs [\$16,698] + Annual Indirect Costs [\$2,839] = Low End Projected Future Annual Costs [\$19,537, plus the implicit price deflator].

The high end of the range assumes that all eligible claimants will file annual claims on both law enforcement and attorney consultation costs and 12,364 unrepresented youths, 16 and 17 years old, who are subject to custodial interrogation are projected to be arrested statewide in fiscal year 2022-2023, as follows:

Future Attorney Potential Direct Costs:

1. Youths Arrested During the 2022-2023 fiscal year [12,364] – Estimated Youths Claimed Annually [242] = Estimated Non-Filer Consultations [12,122]
2. Estimated Cost per Consultation [\$69] x Estimated Non-Filer Consultations [12,122] = Estimated Non-filer Future Direct Attorney Costs [\$836,418]
3. Projected Future Annual Costs [\$19,537] + Estimated Non-filer Future Direct Attorney Costs [\$836,418] = Potential Future Direct Attorney Costs [\$855,955]

Future Law Enforcement Potential Direct Costs:

1. Average Salary per minute [\$0.84] x Minutes to Make Call [3] = Estimated Cost per Call [\$2.52]
2. Estimated Cost per Call [\$2.52] x Youths Arrested During the 2022-2023 fiscal year [12,364] = Potential Direct Law Enforcement Costs [\$31,157]

Total Potential Direct Costs:

1. Potential Future Direct Attorney Costs [\$855,955] + Potential Direct Law Enforcement Costs [\$31,157] = High End of Potential Direct Costs [\$887,112]
2. Average Indirect Cost Rate [17%] x Potential Direct Costs [\$887,112] = High End of Estimated Indirect Costs [\$150,809]
3. Potential Direct Costs [\$887,112] + Estimated Indirect Costs [\$150,809] = High End Estimated Annual Costs for 2022-2023 and Following [\$1,037,921, plus the implicit price deflator].

Draft Proposed Statewide Cost Estimate

On January 10, 2024, Commission staff issued the Draft Proposed Statewide Cost Estimate.³⁰ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Conclusion

On March 22, 2024, the Commission adopted this Statewide Cost Estimate of \$36,766 to \$1,192,335 for the Initial Claim Period (Second Half Fiscal Year 2020-2021 and Fiscal Year 2021-2022) and \$19,537 to \$1,037,921, plus the implicit price deflator for fiscal year 2022-2023 and following.

³⁰ Exhibit C, Draft Proposed Statewide Cost Estimate, issued January 10, 2024.