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STATE OF CALIFORNIA

Office of Planning and Research

1400 Tenth Street Sacramento California 95814

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**THE COST OF MAJOR MURDER TRIALS:  
WHO SHOULD PAY HOW MUCH?**

**PREPARED BY THE GOVERNOR'S OFFICE  
OF  
PLANNING AND RESEARCH**

**PURSUANT TO  
SECTION 15202 OF THE GOVERNMENT CODE**

**November 1987**

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**DEC 19 1988**

**ACQUISITIONS**



# State of California

GOVERNOR'S OFFICE  
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1400 TENTH STREET  
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GEORGE DEUKMEJIAN  
GOVERNOR

November 1987

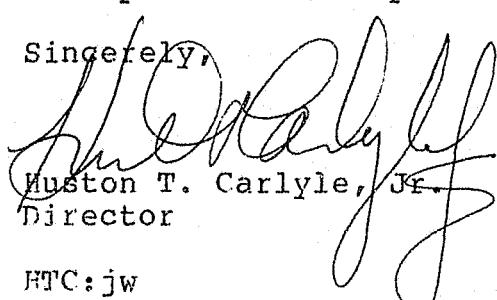
Honorable George Deukmejian, Governor  
Honorable Members of California State Legislature  
State Capitol  
Sacramento, CA 95814

Dear Governor Deukmejian and Legislature Members:

The Governor's Office of Planning and Research is pleased to submit this report on the impact and cost of major murder trials and which entity should pay how much for such occurrences. This report by this office is pursuant to Section 15202 of the Government Code.

We hope that the report will prove informative and useful.

Sincerely,

  
Huston T. Carlyle, Jr.  
Director

HTC:jw

Enclosure

NCJRS

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ACQUISITIONS

## TABLE OF CONTENTS

Chapter I: Introduction .....	1
Purpose and Findings of the Report .....	2
Organization of Report .....	2
Chapter II: Methodology .....	3
Who was Interviewed? .....	3
What was Asked? .....	5
What Other Sources Provided Information?.....	6
Chapter III: Conclusions .....	7
Is Cost Sharing Equitable? .....	7
Are the Cost Containment Incentives Effective? ...	9
Recommendations .....	11

## APPENDICES

- Appendix A - The Legislation
- Appendix B - List of Interviewees
- Appendix C - Summary of Trials

## CHAPTER I: INTRODUCTION

Since 1961 the State of California has reimbursed counties for expensive homicide trials. Originally, the reimbursement formula resembled that used for automobile insurance. After a trial exceeded a specified cost -- i.e. a deductible -- the State paid all subsequent costs. Legislation authored by Assemblyman Condit (AB 1813) changed the formula so that it now resembles that used for major medical insurance. The so-called Condit formula lowers the deductible by 50 percent but has the State paying less than 100 percent of all subsequent costs. For small counties, that is those with less than 300,000 residents at the time of the 1980 census, the State share equals 90 percent, which implies a ten percent coinsurance rate. Large counties also saw their deductible lowered, however, for them the State pays only 80 percent of costs.

State aid becomes available as soon as a trial's cost exceeds 0.625 percent of one percent of the assessed value of property within the county, which equals the property tax revenue received by all governmental entities in the county. (Under the Condit formula, each trial is treated as a separate, independent event, so that the deductible must be made for each trial before the county can be reimbursed.) While the percentage cutoff does not vary among counties, the use of property tax as a base effectively limits aid to small counties. Since 1981 only Del Norte, Lassen, Lake, Mendocino, Sierra, Glenn, Napa, San Benito, Sutter and Kings counties have had homicide trials that qualified for reimbursement.

Under the Condit formula the following costs are eligible for reimbursement: All costs related to homicide trial, except normal salaries and expenses, incurred by the county including investigations, prosecutions, defense, expert witnesses, exhibits, laboratory work, and other related expenses, e.g. travel, transportation and out of pocket expenses. Trial costs include all pretrials, hearings and post-conviction proceedings.

More recent legislation by Assemblyman N. Waters (AB 1988, Chapter 32, Statutes of 1986) further refined the formula. (Both this bill and that by Assemblyman Condit are reproduced in Appendix A.) That legislation sought to provide further fiscal relief to counties whose 1980 population did not exceed 150,000. It allows those counties to aggregate all murder trial costs for the purpose of meeting the deductible. It further provides that such counties can receive advanced funding for murder trial costs.

These changes had several purposes. Lowering the deductible shifts the cost burden from counties to the State. Causing counties to pay ten percent of all subsequent costs represents incentive to conserve financial resources.

## PURPOSE AND FINDINGS OF THE REPORT

Both AB 1813 and AB 1988 directed the Governor's Office of Planning and Research to assess how the new formulas affect trial costs and efficiency. Specifically, both bills contained the following language:

The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section [Section 3 of AB 1988, N. Waters] is intended to provide an equitable basis for determining the allocation to the State of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

This report presents the findings and recommendations. Briefly, it concludes that current law does not promote equitable cost sharing and provides, at best, only limited incentives for cost conservation. The cost sharing is not equitable, because the reimbursement formula uses countywide property tax to trigger reimbursement. Since revenue actually available to counties can differ substantially from countywide property taxes, seemingly similar counties face noticeably different cost shares.

Incentives for cost conservation have limited effect, because the law and legal system govern the conduct of major murder trials. Attorneys and judges have little incentive to conserve costs when faced with strong legal proscriptions, while the paying party -- the county -- has little involvement in the actual trial conduct.

Based on those conclusions, we recommend that reimbursements and cost sharing be based on a measure of income truly available to Counties with which to pay their bills: For example, total receipts from sales, property and bed taxes. If that change were made the current deductible and coinsurance rates should be continued.

Cost efficiency would be improved by having the State contract with one or more firms to defend accused parties. Such contracts would promote specialization and combine the accountability and responsibility for trial conduct, thereby increasing efficiency without endangering the rights of defendants.

## ORGANIZATION OF THE REPORT

The next section describes the methodology we used in the conduct of this study and reviews the laws. The last section presents our conclusions and recommendations.

## CHAPTER II: METHODOLOGY

Our methodological choices were influenced by the nature of the information sought. In the mandate for this study, the issues that the Legislature was more concerned about are more subjective and qualitative than objective and quantitative. Consider, for example, the question of whether the financial restraints are reasonable or unreasonable. Or consider the issue of whether cost sharing is or is not equitable.

The complex legal and social structures affecting and governing the conduct of trials also conditioned our methodological choices. It is debatable whether sufficient detailed data could be gathered that would support valid statistical inferences on murder trial costs, what affects them and how those relationships might vary as a consequence of changing reimbursement formulas.

Nonetheless, if many trials had received State aid, we might have pursued detailed statistical analyses, seeking to isolate the financial effect of differing coinsurance rates. However, the State reimbursed counties for fewer than two dozen trials the past five years. Moreover, all of those trials involved crimes that were committed in rural California, thereby removing an important source of variation.

Therefore, we relied heavily on face to face interviews with the principals in affected murder trials to obtain information. We judged that their knowledge, understanding and insight would provide adequate information with which to complete this study.

This chapter details those methodological choices.

### WHO WAS INTERVIEWED?

The first task undertaken was to identify which murder trials had received State funding under Section 11019.5 of the California Government Code, which lays out the eligibility criteria. The California State Controller's Office provided a list of counties who have been reimbursed for the costs of extraordinarily expensive murder trials as well as the name of the defendant. Table II.1 reproduces that list.

Because all the counties on the list save one are very small -- 1980 population less than 150,000 -- we have focused our research on those counties.

TABLE II.1  
COUNTIES AND DEFENDANTS  
SINCE 1981

<u>County</u>	<u>Defendant</u>
Amador	Lawson
Del Norte	Stilly
Del Norte	Hawkins
Glenn	Lescallett
Humbolt	Price
Kings	Hillery
Kings	Yocum, Price, Lawson
Lake	Stanley
Lassen	Silva, Shelton
Lassen	Murrell
Marin	Carpenter
Mendocino	Marston
Mendocino	Gates
Mendocino	Mayfield
Mendocino	Barragan
Mendocino	Hansen
Mendocino	Anzilotti
Mendocino	Danielson
Napa	Ferguson, Quillen, Bilyeu
San Benito	del Fargo
San Benito	Anderson
Sierra	Lee
Sierra	Bradbury
Sierra	Morris
Siskiyou	Croy
Sutter	Corona
Trinity	Spuller
Trinity	Hall
Trinity	Hammond

**SOURCE:** State Controller's Records  
as of May 1987

Using the list from Table II.1, the Presiding Judge of the Superior Court in each county was contacted to determine the name of the trial judge, the assigned counsel and the District Attorney. We also contacted the County Administrative Officer in each affected county, who would be directly responsible for paying the county's share of trial costs. Interviews were then set up with the relevant parties. (Appendix B lists all those who were interviewed.)



## WHAT WAS ASKED?

Prior to the actual conduct of the interviews, the following lines of inquiry were thought to be the most productive.

1. Given the rigorous legal environment circumscribing the conduct of murder trials, can costs affect their conduct?

A critical issue in the conduct of a capital case -- i.e. one where the death penalty is sought -- is to avoid a reversible error. Since the reimposition of the death penalty, the courts have been expanding the definition and types of reversible errors. To minimize that probability, attorneys and judges would choose to err on the side of caution, regardless of the expense involved. If so, costs could tend to be a secondary consideration.

On the other hand, costs could adversely affect the conduct of murder trials. For a small county, their share of the cost may be so burdensome as to encourage "downsizing" of the complaint by the district attorney. [1]

2. Given that the current law lowers the costs to counties of murder trials is there an incentive to "overconsume" murder trials?

Under the current reimbursement formula the price of conducting a murder trial is lower than it was before. Lower cost could encourage district attorneys to "oversize" cases or defense attorneys to engage more expensive expert witnesses.

3. Given the comparative rarity of rural murder trials is there room for improved efficiency?

Is it efficient for the State to pay for new, different attorneys for each murder trial? Murder

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[1] This latter concern is more than theoretical. In the recent Tehama County sex slave trial, Tehama County wanted to accept a ten year plea rather than incur the costs of a change of venue. (Venue was changed and a 104 year sentence given 1 DCA A033479.) In a pending case in El Dorado County, People vs. Darlene Brazil, the trial court had ordered the District Attorney not to confer with court appointed psychiatrists without the defence attorneys being present, in part at least to reduce costs.

trials require special expertise, which in the rural areas may have to be constantly reacquired. If so, trial conduct might be inefficient, in that the attorneys lack complete familiarity.

4. Despite greater State contributions to trial costs, did such trials still strain local budgets?

Even though counties qualify for State assistance after spending as little as \$9,000, is there still a burden because of limited unencumbered resources with which to pay the bills?

5. Does the presense of "987.9" money for defense investigation and other costs affect the conduct and hence county share of costs? [2]

The State pays 100 percent of defense noncounsel costs, whereas the county pays all prosecution costs that are not extranormal. Does the difference in resources favor the defense and if so is that advantage unfair?

#### WHAT OTHER SOURCES PROVIDED INFORMATION?

We also sought objective data on expenditures and hourly rates for the various trials. That information came primarily from the State Controller's Office, which is responsible for reimbursing counties for eligible costs. Eligible costs include expenditures for such items as expert witnesses, defense attorneys' salary and expenses, sheriffs' overtime, and court costs -- primarily for court reporters and daily transcripts.

The State Controller's Office also provided detailed data on county financial resources and expenditures. Those data when compared with trial cost data can be used to assess whether the current formula provided for equitable cost sharing between counties and the State.

The next chapter presents what we found.

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[2] Section 987.9 of the California Penal Code provides complete State funding for all noncounsel defense costs for indigent defendants in capital cases. Requests for funds are heard in camera by a superior court judge who is not the trial judge. These funds are available to all counties regardless of size or financial resources.

### CHAPTER III: CONCLUSIONS

In authorizing this study, the Legislature was seeking answers to two questions: First, does the current formula result in equitable cost sharing between the State and its counties? Second, does the current formula provide an adequate incentive to contain costs? Information presented in this Chapter strongly suggests: 1) that the current formula places about twice the burden on counties' unencumbered resources available for paying the costs of major murder trials than the current law would suggest and; 2) that the cost conserving measures are ineffective. Additionally, we found indications that efficiency in the conduct of rural murder trials can be increased.

This Chapter details our findings and recommends corrective actions.

#### IS COST SHARING EQUITABLE?

Equity in cost sharing has two components. First, are counties with equal resources treated equally? Second, is the cost split between the county and the State equitable?

The law states that when a county has spent 0.625 percent of one percent of its assessed value, the State should begin to pick up a major portion of the cost of major murder trials. The justification for using a countywide measure of property tax revenue would presumably be: Murder is a heinous crime against all society, therefore the cost of timely fair trials should be borne by all. The property tax is among the broadest based taxes, so it is an appropriate measure of ability to pay.

Unfortunately, the formula does not result in equitable cost sharing between seemingly comparable counties. This inequity flows from counties not receiving all of the property tax collected within their borders. In fact, the smaller counties -- those whose population is less than 150,000 -- receive about one third of total collections, with the remaining two thirds going to schools, cities, and special districts (See Table III.1). [3]

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[3] A county's share of the property tax is not necessarily a better measure of the county's unencumbered resources. In 1978, in response to Article XIII of the California Constitution, counties negotiated the split in property tax revenues with their cities, schools and special districts. Those splits ranging from 85/15 to 20/80 county/everybody else. Some variation is to be expected because other taxes, i.e. sales and bed taxes were also negotiated at the same time.

The table compares the total property tax available within a county with actual county receipts. The table arrays counties in ascending order of total available. Actual receipts show substantial variation for similar counties. Compare for example San Benito, Amador and Inyo counties. Total available taxes are close, but receipts differ by almost \$2,000,000. Thus, similar cost trials would appear to place substantially different burdens on different counties.

TABLE III.1

COUNTY SHARE OF PROPERTY TAX REVENUE  
1985/86

County	Property Tax Revenues		
	Countywide	Share	Percent
Alpine	1,359,660	915,396	67.33
Sierra	2,035,140	1,140,231	56.03
Trinity	4,644,890	1,605,689	34.57
Del Norte	4,897,360	1,438,195	29.37
Modoc	4,962,410	1,826,373	36.80
Mariposa	6,832,940	1,920,632	28.11
Lassen	7,479,990	1,889,951	25.27
Amador	10,527,090	4,230,000	40.18
San Benito	10,535,610	2,294,978	21.78
Inyo	10,631,300	3,880,683	36.50
Glenn	11,266,790	3,751,831	33.30
Mono	11,678,060	4,314,700	36.95
Colusa	11,704,860	4,185,681	35.76
Calaveras	12,625,200	3,448,737	27.32
Plumas	12,805,860	3,487,714	27.24
Tehama	14,399,260	4,535,045	31.49
Siskiyou	15,007,570	4,944,128	32.94
Tuolumne	16,163,510	5,128,681	31.73
Sutter	22,488,290	7,294,403	32.44
Kings	25,001,010	9,799,288	39.20
Mendocino	25,983,990	9,796,809	37.70
Imperial	26,947,950	7,462,023	27.69
Madera	28,691,110	7,193,000	25.07
Lake	28,888,800	9,659,465	33.44
Nevada	29,496,490	7,655,419	25.95
Humboldt	32,553,470	10,963,169	33.68
Yolo	40,353,650	12,677,659	31.42
Napa	42,644,010	11,322,944	26.55
Shasta	45,286,260	11,515,415	25.43
El Dorado	47,000,900	15,613,217	33.22
Placer	64,811,810	17,871,490	27.57

SOURCE: Derived from calculations applied to California Board of Equalization figures for total assessed value and from data supplied by California State Controller's Office.

The degree to which counties can control their expenditures also makes using a fraction of countywide property tax as a way to trigger State aid problematic. Most county expenditures are for programs, such as welfare, health care for the poor and the justice system, whose cost cannot be effectively controlled by the county. Consequently, the amount of property tax revenue available or received does not truly measure how much income is available to pay for a major murder trial.

In practical terms, basing the deductible on property tax results in a much greater burden on actual resources than is at first apparent. Table III.2 shows how the deductible compares to one measure of resources actually available. That measure equals the sum of county property, sales and other tax receipts for the fiscal year 1985/86. When the deductible, i.e. 0.625 percent of total property tax revenue available, as defined by current law is compared to that measure, we see that counties need to spend about one and a half percent of their discretionary income before receiving State aid. That fraction is more than double the rate in current law.

Assuming the table accurately measures available income, then the "true" copayment rate is more than double the ten percent proscribed by law. For California's small counties, discretionary income, as defined here, averages 40.3 percent of countywide property tax. Thus a ten percent levy on that tax translates into a levy of almost 25 percent on the resources available to a county to pay for the conduct of murder trials.

#### **ARE THE COST CONTAINMENT INCENTIVES EFFECTIVE?**

Current law forces counties to pay ten percent of all reimbursable costs above the minimum in order to encourage cost conservation. However, the copayment has virtually no effect on cost containment. The cost of a murder trial, and especially the cost of a capital case, is governed primarily by the legal environment and theories governing how that environment is viewed.

All death penalty convictions are automatically appealed to assure that the defendants rights were not violated. Therefore, all parties to the case go to great lengths to ensure and protect the accused rights. Furthermore, since the cost of a second trial considerably exceeds the cost of, say, another motion, any activity that has legal merit is pursued. The county has little or no say in what issues have legal merit, and therefore little impact on decisions that affect costs.

Another factor lessens the counties' ability to contain trial costs. In 1977, the State enacted Section 987.9 of the California Penal Code which provides 100 percent reimbursement for all costs of preparing the defense except for legal counsel. Approval of 987.9 money comes from a superior court judge who is

TABLE III.2

**MURDER TRIALS AND FISCAL STRESS FOR SMALL COUNTIES**  
**A Comparison of Costs and Financial Resources**

County	Discretionary	Deductible	
	Revenue	\$'s	%
Alpine	1,178,767	8,498	0.72
Sierra	1,539,801	12,720	0.83
Trinity	2,591,189	29,031	1.12
Del Norte	2,181,535	30,609	1.40
Modoc	2,181,873	31,015	1.42
Mariposa	4,496,732	42,706	0.95
Lassen	2,809,452	46,750	1.66
Amador	5,462,000	65,794	1.20
San Benito	3,048,343	65,848	2.16
Inyo	5,563,401	66,446	1.19
Glenn	4,272,531	70,417	1.65
Mono	5,243,300	72,988	1.39
Colusa	4,996,029	73,155	1.46
Calaveras	4,871,803	78,908	1.62
Plumas	5,535,769	80,037	1.45
Tehama	6,552,969	89,995	1.37
Siskiyou	6,661,528	93,797	1.41
Tuolumne	6,559,870	101,022	1.54
Sutter	9,305,625	140,552	1.51
Kings	14,481,057	156,256	1.08
Mendocino	14,500,535	162,400	1.12
Imperial	10,212,292	168,425	1.65
Madera	10,302,560	179,319	1.74
Lake	12,728,705	180,555	1.42
Nevada	13,319,235	184,353	1.38
Humboldt	15,792,031	203,459	1.29
Yolo	18,409,489	252,210	1.37
Napa	17,304,937	266,525	1.54
Shasta	16,276,312	283,039	1.74
El Dorado	19,824,762	293,756	1.48
Placer	26,301,783	405,074	1.54

**SOURCE:** The California State Controller's Office, the California Board of Equalization, and calculations by the author.

**NOTE:** Discretionary income consists of the counties share of property taxes, sales taxes, bed taxes, etc. The deductible equals 0.625 percent of countywide property tax receipts plus reimbursements for State exemptions.

not the trial judge. Further, both the request and approval are done in camera with only the "987.9" judge and defense counsel present. Thus, a county cannot apply economic considerations to a primary determinant of trial costs.

For the more rural areas, a third factor serves to drive up the cost of murder trials: The local legal community's lack of experience. Many counties have had few murder trials and many no capital cases. Only 15 counties have been reimbursed for the costs of a major murder trial. Even fewer counties have been reimbursed for several trials. The consequent lack of intimate familiarity with current law and legal theory will increase both prosecution and defense costs.

Both counsels will have to learn or relearn an area of the law that has undergone and is undergoing considerable change. They will bill for their hours spent on legal research. Given the importance of jury selection, inexperienced counsels may be more likely to seek professional help in that process, which can easily cost \$25,000. The consequence for the State is that it repeatedly pays for the acquisition of knowledge as well as its use.

That lack of experience can also affect expenditure of 987.9 money. Both judges and defense counsel have little knowledge with which to decide what constitutes a reasonable expenditure for given activities. Evidence of that was found in numerous complaints about "outrageous" defense requests and penurious judicial attitudes.

Do those facts imply both that counties have little practical control over costs and that society, in general and the counties in particular are spending more than needed to conduct murder trials in small counties? Those interviewed felt that the answer was yes with the important qualifier that the degree of overconsumption was readily quantifiable. It is important to note that even substantial overconsumption does not imply major losses. Since 1981 State reimbursements total less than \$8,000,000. Thus even if inefficiency and overconsumption inflated the bill by a quarter, potential savings from their elimination would be less than \$2,000,000 over a multiyear period. [4]

#### RECOMMENDATIONS:

We recommend that current law be changed to better reflect the fiscal strength of small counties. One way to accomplish that would be to revise the law so that some measure of the resources actually available to the county would be used calculate both the deductible and copayment. The continued use of a fraction of countywide property tax as a trigger for reimbursement results in inequitable cost sharing between the counties and the State and it does not treat counties with equal resources equally. With those changes, the amended law should continue to use the current fractions for calculating the deductible and copayments.

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[4] Program costs to date probably underestimate future costs. According to the State Controller's Office, costs for fiscal 1986/87 will total about \$2.5 million. Further, the change in the California State Supreme Court may increase the willingness of prosecutors to seek the death penalty.

The consequence of the recommended changes would be to halve the deductible and the copayment, while establishing incentives for cost containment. Counties would receive more assistance but would not receive a "blank check" with which to pay for murder trials.

Further changes are feasible that would provide for more efficient and effective trial conduct. The State could contract with law firms or public defenders to provide defense services in capital cases. When counties were confronted with the need to provide those services they could hire them from the State rather than from local assigned counsel.

Because the winning firm(s) would both control and "pay" for the conduct of murder trials, they would have an incentive to keep costs as low as possible, consistent with providing an adequate defense. Moreover, assuming competitive bidding the State would purchase defense services at the lowest cost, thereby freeing general fund monies for other uses.

Further, since the winning firm would presumably specialize in murder trial defense especially for capital cases, they would be current as to which motions to file and what legal theories were governing the general conduct of such trials. (Such specialization might have the felicitous side effect of reducing the incidence of reversible errors.)

Careful contract design could also forestall factors which might otherwise increase costs. Increased travel, necessitated by a central office, could be reduced by locating the office near users. The travel costs from an office centrally located in Northern California should be less than from one in San Francisco or Los Angeles. A fixed price contract, i.e. one paid by the case rather than by the hour, would reduce the incentive for firms to pad the number of hours worked and encourage them to seek least cost providers of investigators, expert witnesses, psychological profiles etc.[5]

To sum up, the current law does encourage cost effectiveness, but could be improved. It also encourages somewhat excessive spending for the conduct of murder trials. Finally, the current law places excessive and uneven cost burdens on counties.

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[5]Napa County currently contracts for public defender services for murder trials on a fixed price per trial basis.



**APPENDIX A**

## Assembly Bill No. 1813

## CHAPTER 1469

An act to amend and repeal Section 15202 of the Government Code, relating to trials.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 1813, Condit. Homicide trials.

Under existing law, counties may receive reimbursements in excess of a specified amount for costs of homicide trials.

This bill would authorize additional reimbursement, as specified, with the amount depending upon whether or not the county has a specified population.

This bill would direct the Office of Planning and Research to undertake a study, in cooperation with, among others, the Legislative Analyst and the defense bar, concerning this provision for reimbursement, and to report to the Governor and the Legislature no later than July 1, 1987.

This bill would be repealed on January 1, 1989, unless a later statute, enacted before that date, deletes or extends that date.

*The people of the State of California do enact as follows:*

SECTION 1. Section 15202 of the Government Code is amended to read:

15202. (a) A county with a population of 300,000 or less, at the time of the 1980 decennial census, which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred by the county for each such trial or hearing, without regard to fiscal year, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) A county with a population exceeding 300,000 at the time of the 1980 decennial census which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 80 percent of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent, and not in excess of the amount of money derived from a tax of 0.0125 of 1 percent, and for reimbursement of 100 percent of the costs incurred in excess of the amount of money derived from a tax of 0.0125 percent, of the full value of property assessed for purposes of taxation within the county.

(c) The Controller shall not reimburse any county for costs that exceed the standards for travel and per diem expenses set forth in Sections 700 to 715, and 718, of Title 2 of the California Administrative Code. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for such expenditures.

(d) The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section is intended to provide an equitable basis for determining the allocation to the state of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost-effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

In order to assist the Governor and the Legislature in making that determination, the Office of Planning and Research, in cooperation with the Legislative Analyst, state and local agencies, representatives of law enforcement and the defense bar, and other public officials, shall undertake a study of the effectiveness of this section with regard to those concerns, and, no later than July 1, 1987, shall submit a report to the Governor and to the Legislature with its findings and any recommendations for amendment of this section.

SEC. 2. Section 1 of this act applies to any case in which a final judgment was not entered prior to January 1, 1985. Section 1 shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 15202 of the Government Code, as amended by Section 46 of Chapter 323 the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

## Assembly Bill No. 1988

## CHAPTER 32

An act to amend Sections 11019.5 and 15202 of the Government Code, to amend Section 13516 of the Penal Code, and to amend Section 2 of Chapter 1469 of the Statutes of 1984, relating to crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 1986. Filed with Secretary of State March 21, 1986.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 1988, N. Waters. Criminal trials and investigations.

(1) Under existing law and until January 1, 1989, counties with a population of 300,000 or less may receive reimbursement from the state, without regard to fiscal year, of 90% of the costs incurred by the county for each homicide trial or hearing. Reimbursements are made to a county for those costs incurred which exceed the amount of money derived by the county from a prescribed property tax.

This bill would allow a county with a population of 150,000 or less to obtain reimbursement under the above provision for the costs incurred in the conduct of only one homicide trial or hearing which is continued from a prior fiscal year without limiting the amount of that reimbursement to those costs which exceed the amount of money derived by the county from the prescribed property tax.

Secondly, this bill would revise the amount of reimbursement that a county with a population of 150,000 or less may receive from the state for the cost of 2 or more homicide trials or hearings within a fiscal year to 90% of those costs, in excess of the specified property tax derived, for the first trial, and 85% of the costs incurred for subsequent trials or hearings.

The bill would also set forth the allowable reimbursable costs for counties with a population of 150,000 or less.

This bill would shorten the operative date of the above provisions from January 1, 1989, to January 1, 1988.

The bill would also require the Controller to advance payment to a county for claims under this bill.

The bill would apply to extraordinary costs incurred in the investigation and prosecution of any homicide case if the costs were incurred on or after July 1, 1985.

(2) Existing law requires the Commission on Peace Officer Standards and Training to prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of these crimes.

This bill would express the Legislature's intent that this existing law is to encourage the establishment of investigation guidelines that take into consideration the sensitive nature of the sexual exploitation and sexual abuse of children with respect to both the accused and the alleged victim.

The bill would appropriate \$250,000 to the Controller for expenditures in fiscal year 1985-86 in augmentation of a specified item of the Budget Act of 1985 for purposes of paying the claims set forth in the bill and would authorize a request for a deficiency appropriation for additional amounts.

(3) The bill would take effect immediately as an urgency statute. Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11019.5 of the Government Code is amended to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, any state department specified in subdivision (b), after receiving a request by a board of supervisors of an affected county which has a population of 150,000 or less as of January 1, 1983, and upon determining that advance payment is essential to the effective implementation of a particular program, and further to the extent that funds are available, and not more frequently than once each month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions, or reimbursements required for the delivery of services by a county.

(b) This section applies to the Department of Corrections, the Department of Health Services, and the State Department of Mental Health, and to claims presented to the Controller pursuant to subdivision (b) of Section 15202.

(c) The director of each department specified in subdivision (b) and the Controller shall promulgate regulations or guidelines and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(d) Claim schedules for advance payments shall be presented to the appropriate department in the manner prescribed by the department. Payment of claims shall be made within 60 days after a claim is received by the department.

(e) Each department specified in subdivision (b) shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department shall take into consideration

the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(f) A county, upon determining that an advance payment is essential for the effective implementation of a particular program, and to the extent funds are available, and not more frequently than once each month, may advance to other affected local public agencies located within its jurisdiction (i.e., school districts, special districts, cities, etc.) an amount not to exceed one-twelfth of the annual allocations, reimbursements, or subventions required for the delivery of services pursuant to related state and federal laws.

SEC. 2. Section 15202 of the Government Code, as amended by Chapter 1469 of the Statutes of 1984, is amended to read:

15202. (a) A county with a population of 300,000 or less, at the time of the 1980 decennial census, which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred by the county for each such trial or hearing, without regard to fiscal year, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) (1) A county with a population of 150,000 or less, at the time of the 1980 decennial census, which is responsible for the cost of two or more trials or hearings within a fiscal year of a person or persons for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred in a fiscal year by the county for the conduct of the first trial within a fiscal year and 85 percent of the costs incurred in a fiscal year by the county for the conduct of any and all subsequent trials or hearings, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(2) A county with a population of 150,000 or less, at the time of the 1980 decennial census, which, within a fiscal year, is reimbursed for costs incurred by the county for the conduct of only one trial or hearing pursuant to subdivision (a) shall be reimbursed for that one trial or hearing in subsequent fiscal years for costs incurred in those subsequent fiscal years without again being required to expend county funds equal to 0.00625 of 1 percent of assessed valuation of property within the county so long as all reimbursements to the county under this paragraph are for only that one trial or hearing.

For purposes of this subdivision, in determining the costs of a homicide trial, trials, hearing, or hearings, the costs shall include, all pretrial, trial, and posttrial costs incurred in connection with the investigation, prosecution, and defense of a homicide case or cases within a fiscal year, including, but not limited to, the costs incurred

by the district attorney, sheriff, public defender, and witnesses, which were reasonably required by the court and participants in the case or cases, and other extraordinary costs associated with the investigation in homicide cases.

(c) A county with a population exceeding 300,000 at the time of the 1980 decennial census which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 80 percent of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent, and not in excess of the amount of money derived from a tax of 0.0125 of 1 percent, and for reimbursement of 100 percent of the costs incurred in excess of the amount of money derived from a tax of 0.0125 percent, of the full value of property assessed for purposes of taxation within the county.

(d) The Controller shall not reimburse any county for costs that exceed the standards for travel and per diem expenses set forth in Sections 700 to 715, and 718, of Title 2 of the California Administrative Code. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for such expenditures.

(e) The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section is intended to provide an equitable basis for determining the allocation to the state of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost-effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

In order to assist the Governor and the Legislature in making that determination, the Office of Planning and Research, in cooperation with the Legislative Analyst, state and local agencies, representatives of law enforcement and the defense bar, and other public officials, shall undertake a study of the effectiveness of this section with regard to those concerns, and, no later than July 1, 1987, shall submit a report to the Governor and to the Legislature with its findings and any recommendations for amendment of this section.

SEC. 3. Section 13516 of the Penal Code is amended to read:

13516. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of these crimes.

(b) The course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1977, include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance on or after that date at any course which does not comply with the

requirements of this subdivision.

(c) The commission shall prepare and implement a course for the training of specialists in the investigation of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases. Officers assigned to investigation duties which include the handling of cases involving the sexual exploitation or sexual abuse of children, shall successfully complete that training within six months of the date the assignment was made.

(d) It is the intent of the Legislature in the enactment of this section to encourage the establishment of sex crime investigation units in police agencies throughout the state, which units shall include, but not be limited to, investigating crimes involving the sexual exploitation and sexual abuse of children.

(e) It is the further intent of the Legislature in the enactment of this section to encourage the establishment of investigation guidelines that take into consideration the sensitive nature of the sexual exploitation and sexual abuse of children with respect to both the accused and the alleged victim.

SEC. 4. Section 2 of Chapter 1469 of the Statutes of 1984 is amended to read:

Sec. 2. Section 1 of this act applies to any case in which a final judgment was not entered prior to January 1, 1985. Section 1 shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 15202 of the Government Code, as amended by Section 46 of Chapter 323 the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. With respect to the amendments set forth in Sections 2 and 4 of this act, the Legislature finds and declares the following:

(a) That Chapter 1469 of the Statutes of 1984 enacted provisions intended to accomplish each of the following objectives:

(1) Authorized, until January 1, 1989, a new procedure for additional state reimbursement for costs of homicide trials in counties with a population of 300,000 or less.

(2) Directed the Office of Planning and Research to undertake a study, in cooperation with specified public agencies, concerning this provision for reimbursement and to report to the Governor and the Legislature no later than July 1, 1987.

(b) That pending the study outcome there is an immediate need to provide further interim state assistance to small rural counties, with a population of 150,000 or less, that are facing worsening fiscal crises and serious cash flow problems due to extraordinary costs of the investigation and prosecution of a rash of multiple homicides.

(c) That authorization, for an interim period, be provided by this act establishing a revised procedure for small rural counties allowing

them to be eligible for additional reimbursement, payable on a regularly scheduled basis, to help relieve the onerous financial burdens suddenly encumbered by excessive costs of homicide cases over which the small counties have virtually no control.

(d) That the short-term fiscal relief provided by subdivision (b) of Section 15202 of the Government Code, as amended by Section 2 of this act, recognizes and is consistent with the fiscal and programmatic relationships and responsibilities between the state and small rural counties as they involve funding and criminal justice program delivery of partnership programs of local and statewide significance.

(e) That the short-term fiscal relief provided by subdivision (b) of Section 15202 of the Government Code, as amended by Section 2 of this act, shall only be made available to the applicable counties for the costs incurred by them as set forth in that section involving activities undertaken following the filing, in the superior court, of an indictment.

SEC. 6. It is the further intent of the Legislature that the amendments to Section 15202 of the Government Code made by Section 2 of this act be given effect with respect to any extraordinary costs incurred in the investigation and prosecution of any homicide case if the costs were incurred on or after July 1, 1985.

SEC. 7. The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the General Fund to the Controller for expenditure in the 1985-86 fiscal year in augmentation of, and for the purpose of paying claims filed pursuant to subdivision (b) of Section 15202 of the Government Code pursuant to the standards provided in provision 2 of Item 8180-101-001 of the Budget Act of 1985. If those funds are not sufficient to satisfy those claims, the Controller shall request the Director of Finance to include any amounts necessary in a deficiency appropriation.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

A rash of homicide cases in counties has caused a drain on the cash flow of those counties.

## **APPENDIX B**

APPENDIX B

LISTING OF INTERVIEWEES  
FOR  
AB 1813 AND AB 1988

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**APPENDIX C**

PEOPLE V. LEE

LOCATION OF TRIAL: Placer County

DATE OF CRIME: May 28, 1984

ARREST OF DEFENDANT: July 31, 1984

STATUS: Tentatively set for trial late 1987.

FACTS: Defendant accused of killing two girls in Sierra County. Special circumstances filed.

INVESTIGATION: Current defense counsel inherited from contract public defender. Investigation and preparation for trial is currently in progress.

EXPERTS: N/A

EXHIBITS: N/A

WITNESSES: N/A

LENGTH OF TRIAL: N/A

TRIAL JUDGE: Reginald Littrell

987.9 JUDGE: Stanley Greene

PEOPLE V. ANZILOTTI

**LOCATION OF TRIAL:** Mendocino County

**RESPONSIBLE COUNTY:** Mendocino County

**DATE OF CRIME:** February 21, 1984

**ARREST OF DEFENDANT:** February 21, 1984

**STATUS:** Convicted of second degree murder, conviction is currently on appeal.

**FACTS:** Defendant accused of strangling separated wife with an electrical cord. Wife said to have approached defendant with a metal object. Prosecution based on three theories: (1) rape; (2) lying in wait; (3) first degree burglary. Special circumstances were dropped pre-trial.

**INVESTIGATION:** County hired investigator selected by the defense attorney. Victim's violent temper an issue to corroborate Anzilotti's claim of self-defense. Because most of victim's family and acquaintances lived in Brazil, defense counsel considered sending an investigator to Brazil to collect evidence of past violent behavior of victim. This part of the investigation, however, was handled by telephone. Defense also did some investigation of jurors for voir dire.

**EXPERTS:** Defendant spoke only broken English and an interpreter in the Italian dialect of Tuscano was necessary. Defense had to retain an interpreter from San Francisco.

**EXHIBITS:** Routine.

**WITNESSES:** Most witnesses were local, defendant's son had to be flown from Illinois to testify.

**LENGTH OF TRIAL:** October 1985 to November 1985

**TRIAL JUDGE:** Arthur Broaddus

**987.9 JUDGE:** James W. Luther

PEOPLE V. GATES

**LOCATION OF TRIAL:** Mendocino County

**RESPONSIBLE COUNTY:** Mendocino County

**DATE OF CRIME:** September 1984

**ARREST OF DEFENDANT:** Not available.

**STATUS:** Defendant convicted of involuntary manslaughter after hung jury at first trial.

**FACTS:** Hunters were shot by defendant while attempting to steal marijuana. Special circumstances filed by the district attorney based on lying in wait. Defendant pleaded self defense.

**INVESTIGATION:** Defendant originally retained private counsel but later used contract public defender. Public defender retained same out-of-town investigator used by private counsel. No extensive investigation of jurors because special circumstances dropped before jury selected.

**EXPERTS:** Forensic expert for bullet wounds. Surveyor for diagram of scene.

**EXHIBITS:** Diagram of scene done because topography of the area was an issue.

**WITNESSES:** A few eyewitnesses.

**LENGTH OF TRIAL:** August 7, 1985 to October 15, 1985

**TRIAL JUDGE:** Rothwell B. Mason

**987.9 JUDGE:** James W. Luther

PEOPLE V. FERGUSON

**LOCATION OF TRIAL:** Sonoma County

**RESPONSIBLE COUNTY** Napa County

**DATE OF CRIME:** December 31, 1981

**ARREST OF DEFENDANT:** Not available

**STATUS:** Defendant Ferguson pleaded guilty to second degree murder. The other two defendants tried in Alameda County after a change of venue.

**FACTS:** The three Defendants allegedly robbed a liquor store. Dispute as to which Defendant remained in automobile behind the wheel. Shooting death occurred at the liquor store. Defendant Ferguson was not charged with special circumstances.

**INVESTIGATION:** Investigator for Ferguson had to do extensive in-state traveling because of an alibi defense. Out of town witnesses for the penalty phase had to be interviewed prior to the dropping of special circumstances. Judge did not do jury list, extensive investigation of six jury panels for voir dire.

**EXPERTS:** Forensics, ballistics, fingerprinting, hair analysis, and a psychologist.

**WITNESSES:** More than 10; defense witness primarily character type.

**LENGTH OF PREPARATION AND TRIAL:** Pretrial preparation required 4 to 5 months.

**TRIAL JUDGE:** Kenneth M. Eymann

**987.9 JUDGE:** Not applicable

PEOPLE V. HANSEN

**LOCATION OF TRIAL:** Mendocino County

**RESPONSIBLE COUNTY:** Mendocino County

**DATE OF CRIME:** August 11, 1984

**ARREST OF DEFENDANT:** December 14, 1984

**STATUS:** Defendant convicted of involuntary manslaughter.

**FACTS:** Defendant was approximately nineteen. Female acquaintance of defendant was attempting to get away from victim. defendant drove female acquaintance home followed by victim and friends. Defendant went into house and obtained a knife. After an altercation victim was stabbed to death. Defense pleaded self-defense. Special Circumstances were not filed.

**INVESTIGATION:** Defense attorney was from Oakland. Witnesses to the crime were difficult to locate. Travel to Southern California was necessary to interview witnesses. Victim's friends were untrustworthy witnesses, investigation for impeachment purposes was necessary. No investigation for voir dire.

**EXPERTS:** No defense experts. People used San Francisco Coroner.

**EXHIBITS:** Aerial photographs and diagrams.

**WITNESSES:** Primarily local, except for two from Southern California.

**LENGTH OF TRIAL:** June 18, 1985 to June 28, 1985

**TRIAL JUDGE:** Timothy O'Brien

**987.9 JUDGE:** James Luther

PEOPLE V. SILVA

**LOCATION OF TRIAL:** San Bernardino County

**RESPONSIBLE COUNTY:** Lassen County

**DATE OF CRIME:** January 20, 1981

**ARREST OF DEFENDANT:** May 1981

**STATUS:** Defendant Silva convicted of first degree murder with a finding of special circumstances. Conviction is currently on appeal.

**FACTS:** Three co-defendants accused of the kidnapping, robbery, sexual abuse and murder in Lassen County of a couple moving from southern California to Oregon. One nineteen year old co-defendant, who was brain damaged, worked out a plea and another was tried in Mendocino County where he was convicted of first and second degree murder with no special circumstances. Defendant Silva was tried in San Bernardino County after a change of venue from Lassen County. The defendants allegedly followed the victims after leaving a restaurant and pulled them over with a fake red light. The victims were taken to some property one of the defendants owned where the male victim was chained to a tree and shot. The female victim's body was found some months later in Shasta County. She had been shot. The nineteen year old co-defendant was the People's principal witness. The case had many legal issues. Defendant Silva was convicted partially on the basis of an adoptive admission made to the nineteen year old co-defendant. The People used statements made as a result of in custodial interrogation, even though shortly before those statements were made Silva had refused to talk.

**INVESTIGATION:** The Mendocino trial occurred first and much of the investigation in that case was used in the San Bernardino trial.



**EXPERTS:**

Defense used no experts. The People used firearms, medical, fingerprint, and forensic experts. Psychiatrist examining Silva never testified.

**EXHIBITS:**

Defense used none. The People cut down the tree where the male victim was chained and shipped it to San Bernardino.

**WITNESSES:**

Defense used witnesses only during the penalty phase, e.g., family members of defendant. People used police and eyewitnesses along with the nineteen year old co-defendant. Witnesses generally had to travel from Lassen to San Bernardino County for the trial.

**LENGTH OF TRIAL:**

Six months.

**TRIAL JUDGE:**

Joseph Campbell

**987.9 JUDGE:**

Joseph Harvey

PEOPLE V. STILLY

**LOCATION OF TRIAL:** Del Norte County

**RESPONSIBLE COUNTY:** Del Norte County

**DATE OF CRIME:** November 2, 1985

**ARREST OF DEFENDANT:** November 5, 1985

**STATUS:** No trial held.

**FACTS:** Defendant alleged to have shot two drug dealers. Defendant maintains that a co-defendant was the triggerman and that he was a bystander. District Attorney is attempting to use defendant's statements to a fellow inmate while in jail. The fellow inmate has retracted the statement. Special circumstances filed based on robbery and multiple murders. Defendant sentenced to two consecutive life sentences with possibility of parole.

**INVESTIGATION:** Travel to San Luis Obispo County for witness interviews.

**EXPERTS:** Forensics.

**EXHIBITS:** Reconstruction of crime scene.

**WITNESSES:** Local. Possible production of witnesses from outside of the county for the penalty phase.

**LENGTH OF TRIAL:** No trial was held. Sentence resulted from plea bargain.

**TRIAL JUDGE:** Frank S. Petersen

**987.9 JUDGE:** William S. Ferroggiaro, Jr.

PEOPLE V. BARRAGAN

**LOCATION OF TRIAL:** Mendocino County

**RESPONSIBLE COUNTY:** Mendocino County

**DATE OF CRIME:** September 2 1984

**ARREST OF DEFENDANT:** Not available.

**STATUS:** Defendant convicted of involuntary manslaughter.

**FACTS:** Defendant along with a companion were thrown out of a bar by two other patrons. Defendant had been asleep. Defendant grabbed a knife and stabbed a bystander who the defendant mistakenly believed was an attacker. Special circumstances filed on a lying in wait theory. Issue of admissibility of confession argued at preliminary hearing and on appeal.

**INVESTIGATION:** Defense used own contract investigator. No out of county trial. Defense investigator spent one week on the jury lists. No psychologists used.

**EXPERTS:** None other than laboratory work.

**EXHIBITS:** Photographs of scene.

**WITNESSES:** All in the area. About forty witnesses called.

**LENGTH OF TRIAL:** March 10, 1986 to March 17, 1986

**TRIAL JUDGE:** Arthur Broaddus

**987.9 JUDGE:** Timothy O'Brien

PEOPLE V. DANIELSON

**LOCATION OF TRIAL:** Mendocino County

**RESPONSIBLE COUNTY:** Mendocino County

**DATE OF CRIME:** July 1982

**ARREST OF DEFENDANT:** April 1984

**STATUS:** Defendant convicted of first degree murder with a finding of special circumstances for the death penalty. Conviction is currently on appeal.

**FACTS:** Defendant, who was traveling with a female companion -- age fifteen -- kidnapped and shot an elderly couple to death in a state park. Defendant took the couple's truck for a week and used their credit cards and travelers checks for a longer period. Prior to the Mendocino county killings, the defendant killed a man in Oregon and attempted to kill others in Arizona. Defendant confessed to the Oregon killings during the penalty phase of this trial.

**INVESTIGATION:** The investigation involved frequent travel out of state. Virtually all of the witnesses were out of state. Two investigators were used full time and were gathering information through the trial. The investigators were used on voir dire.

**EXPERTS:** Prosecution used mostly state employed experts. The defense used two psychiatrists for the entire trial. Defense also used ballistics, handwriting, pathology, anthropology, and dental experts.

**EXHIBITS:** Business records assembled for credit card and travelers checks used.

**LENGTH OF TRIAL:** Nearly seven months including jury selection.

**TRIAL JUDGE:** James Luther

**987.9 JUDGE:** Arthur Broaddus

PEOPLE V. PRICE

**LOCATION OF TRIAL:** Humboldt County

**RESPONSIBLE COUNTY:** Humboldt and Los Angeles Counties

**DATE OF CRIME:** February 1983

**ARREST OF DEFENDANT:** March 1983

**STATUS:** Convicted of first degree murder. Finding of special circumstances and a death sentence. Currently on appeal.

**FACTS:** Defendant tried for two murders, one in Humboldt County and one in Los Angeles County. Both murder cases were tried in Humboldt County. Defendant allegedly carried out a contract murder and murdered a girl friend of an individual who had an extensive gun collection. The People's motivation theory for her murder was either to silence her, or, to get access to the guns. Defendant was also involved in several armed robberies.

**INVESTIGATION:** A Deputy State Attorney General was involved in this case full time. Extensive contact with State and federal prisons was necessary. The People had to show a connection with a prisoner's society and the defendant, and thus extensive travel was required through California, Oregon, and Nevada. Security concerns required some expenditures. A special District Attorney office was set up separate from the main office with its own attorney, investigators, and support staff. Expense was also involved in providing security while witnesses were brought out of prisons to testify.

**EXPERTS:** Forensics and psychiatrists.

**EXHIBITS:** Diagrams and displays were extensively used. A time chart was developed to show whereabouts of defendant.

**WITNESSES:** More than 250 subpoenaed by both defense and prosecution. 150 were generally in California, some from as far away as Florida.

**LENGTH OF TRIAL:** 13 months; 4 months for jury selection.

**TRIAL JUDGE:** John Buffington

**987.9 JUDGE:** J. Michael Brown

PEOPLE V. BRADBURY

LOCATION OF TRIAL: Sonoma County

RESPONSIBLE COUNTY: Sierra County

DATE OF CRIME: Not available.

ARREST OF DEFENDANT: Not available.

STATUS: Awaiting transfer of case to another county. Pretrial motions scheduled in April 1987.

FACTS: Defendant and the two victims were friends who worked a mining claim in Sierra County. Defendant allegedly shot the two victims with a rifle and threw the gun away. Defendant does not remember anything. There is some question whether the defendant is capable of consulting with counsel. Special circumstances filed. Insanity is an issue.

INVESTIGATION: Pending

EXPERTS: Psychiatrists used.

EXHIBITS: Pending

WITNESSES: Pending

LENGTH OF TRIAL: Estimate of two and one half months.

TRIAL JUDGE: Pending

987.9 JUDGE: Pending

PEOPLE V. MORRIS

**LOCATION OF TRIAL:** San Joaquin County

**RESPONSIBLE COUNTY:** Sierra County

**DATE OF CRIME:** September 1985

**ARREST OF DEFENDANT:** January 1986

**STATUS:** Preliminary hearing held January 1986.  
Tentative trial date set for Mid 1987.

**FACTS:** Defendant and two female companions allegedly bludgeoned a man to death and stole his van in Sierra County. The three picked up a hitchhiker in Nebraska and admitted the killing to him. The hitchhiker reported the defendants to the Nebraska authorities. Morris waived extradition. Special circumstances filed based on murder committed in the course of a robbery.

**INVESTIGATION:** Investigation is in process. Some investigation has already occurred for the motion to suppress and Miranda motion at the preliminary hearing.

**EXPERTS:** Pending

**EXHIBITS:** Pending

**WITNESSES:** Pending

**LENGTH OF TRIAL:** Pending

**TRIAL JUDGE:** Pending

**987.9 JUDGE:** Pending



PEOPLE V. MAYFIELD

LOCATION OF TRIAL: Mendocino County

RESPONSIBLE COUNTY: Mendocino County

DATE OF CRIME: Not available.

ARREST OF DEFENDANT: Not available.

STATUS: Convicted of second degree murder.  
Case is currently on appeal.

FACTS: Defendant saw his separated wife in a trailer with the victim, a male mutual friend. Defendant drove twenty miles and returned. He walked into the bedroom. The victim drew his gun, but Defendant fired before the victim. Victim killed. Defense claimed self defense. People alleged first degree murder with no special circumstances filed.

INVESTIGATION: All investigation and attorney costs for the defense were paid with private funds. Attorney General handled the case for the People. Little travel.

EXPERTS: Routine

EXHIBITS: Routine

WITNESSES: Several, but no travel.

LENGTH OF TRIAL: Three weeks

TRIAL JUDGE: Timothy O'Brien

987.9 JUDGE: Not applicable.

PEOPLE V. MARSTON

**LOCATION OF TRIAL:** Mendocino County

**RESPONSIBLE COUNTY:** Mendocino County

**DATE OF CRIME:** February 1984

**ARREST OF DEFENDANT:** March 1984

**STATUS:** Defendant convicted of first degree murder with a finding of special circumstances. Defendant sentenced to life without possibility of parole. Appeal is pending.

**FACTS:** Defendant engaged in a drug deal with his cousin by marriage and a female companion. Defendant shot cousin and his companion many times. Defendant admitted being present and engaging in a drug deal with the two. Defendant allowed a consent search of his automobile in San Francisco. A shell casing that matched casings at the death scene was found in the trunk. Marston then changed his story and claimed that unidentified individuals came out of the bushes and shot the two victims.

**INVESTIGATION:** Since this case involved a major factual dispute, the investigation was very thorough. Many leads and rumors were investigated. Limited travel involved. Jurors were investigated.

**EXPERTS:** Ballistics and psychiatrists.

**EXHIBITS:** Several, but not very complex.

**WITNESSES:** Many witnesses because of the circumstantial nature of the case.

**LENGTH OF TRIAL:** Ten months; preconviction appeal to Court of Appeal.

**TRIAL JUDGE:** Arthur Broadus

**987.9 JUDGE:** James Luther

PEOPLE V. DEL FARGO

**LOCATION OF TRIAL:** Fresno County. Change of venue from San Benito. (Two trials; two murders.)

**RESPONSIBLE COUNTY:** San Benito County

**DATE OF CRIME:** January 1984, first killing. August, 1984, second killing.

**ARREST OF DEFENDANT:** January 1984, first killing: released on bail; second killing arrested August 1984.

**STATUS:** Defendant convicted of first degree murder for the second killing and second degree murder for the first killing. Special circumstances not filed. Appeals pending.

**FACTS:** The first killing was tried second. In that trial, the People alleged that Del Fargo and a companion had stolen a cow and went to a residence of acquaintances of Del Fargo's companion to butcher it. Del Fargo shot one of the two residents. The defendant claimed self-defense while the People alleged that Del Fargo lost his temper and shot the victim. Del Fargo was convicted of second degree murder. There was evidence that Del Fargo was intoxicated. For the second killing, which was tried first, the People alleged that Del Fargo was dealing in drugs and shot one of his dealers. Del Fargo put the body in his truck and later picked up a companion to help dispose of the body. They ran out of gas, covered the body with weeds, and were shortly thereafter arrested.

**INVESTIGATION:** Investigation was extensive and on-going from the time of trial to arrest. Investigators were used for witness interviews and for voir dire. Travel involved, particularly between Fresno and San Benito counties.

**EXPERTS:** Forensics used for blood identification ballistics. No psychologists were used.

**EXHIBITS:**

Scene reconstruction, pictures and expert exhibits.

**WITNESSES:**

Eyewitnesses in second trial and jailhouse confession in first trial were used. All had to be transported from San Benito to Fresno.

**TRIAL JUDGE:**

First trial: John Fitch; second trial: Mario Ames.

**987.9 JUDGE:**

Harry Damgaard (both trials).

PEOPLE V. STANLEY

**LOCATION OF TRIAL:** Butte County (Change of Venue)

**RESPONSIBLE COUNTY:** Lake County

**DATE OF CRIME:** August 1980

**ARREST OF DEFENDANT:** August 1981

**STATUS:** Defendant convicted of First degree murder with a finding of special circumstances. Currently on appeal.

**FACTS:** Defendant killed his wife while waiting for her across the highway from her home. He shot her through the heart. The apparent motivation for the killing was that the defendant was upset at his wife's desire to separate. She had reported sexual abuse. Defendant was on parole for the killing of another wife. Some relitigation of issues from the earlier murder took place. A second jury was empaneled to determine the competency of the Defendant.

**INVESTIGATION:** Routine, no extensive travel, but a great deal of investigative time was used. Investigators were used on voir dire and for witness interviews. Prosecution used State assistance in conducting the trial.

**EXPERTS:** Psychologists, forensics, and laboratory work were used. Generally routine, but, many experts double checked their evidence.

**EXHIBITS:** 400 - 500 exhibits were used. Generally photographs and minute evidence.

**WITNESSES:** Many witnesses in both the guilt and penalty phases. Travel was involved.

**LENGTH OF TRIAL:** Begun in Lake County, October 1982. Switched to Butte County, January 1983. Defendant sentenced February 1984.

**TRIAL JUDGE:**

Robert Mauvney

**987.9 JUDGE:**

Timothy O'Brien

PEOPLE V. HILLARY

**LOCATION OF TRIAL:** Monterey County

**RESPONSIBLE COUNTY:** Kings County

**DATE OF CRIME:** March 28, 1963

**ARREST OF DEFENDANT:** March 28, 1963

**STATUS:** Convicted of first degree murder in November 1986.

**FACTS:** Sentenced to death originally in 1963. Penalty phase reversed twice. Retried on penalty. Third conviction reversed and reconvicted in 1986, receiving 25 years to life with possibility of parole.

**INVESTIGATION:** Difficulty in putting case back together. Reanalysis of evidence. Many witnesses unavailable. Legal issues, e.g., applicability of Miranda.

**EXPERTS:** Reconstruction problem. Expert evidence convicted, e.g., microscopic paint balls found in automobile.

**EXHIBITS:** Many -- all records of testimony from previous trials.

**WITNESSES:** No additional witnesses.

**LENGTH OF TRIAL:** Last trial: three to four weeks.

**TRIAL JUDGE:** John Phillips

**987.9 JUDGE:** Not applicable

PEOPLE V. COX

**LOCATION OF TRIAL:** Santa Clara County

**RESPONSIBLE COUNTY:** Kings County

**DATE OF CRIME:** December 1984

**ARREST OF DEFENDANT:** December 1984

**STATUS:** First degree murder, two counts -- conspiracy and special circumstances  
Currently on Appeal.

**FACTS:** Cox was the triggerman for the crime described in People v. Yocum (see C-27).

**INVESTIGATION:** The primary defense was an alibi defense. Corroborative evidence was obtained by investigating Cox' whereabouts. Jury investigation was used during the penalty phase. Also investigation of Cox' past, e.g., location of teachers, relatives, etc. Defense used death penalty defense consulting firm. Prosecutions: Massive rumours were tracked down. Little travel until venue was changed.

**EXPERTS:** Psychiatrists, sociologists, psychologists, death penalty witnesses. No pathologists: issue was alibi. Routine blood testing.

**EXHIBITS:** Photographs of gas chamber. Limited diagrams.

**WITNESSES:** Prosecution used jailhouse witnesses some under Federal protection program. Travel to Los Angeles with court reporter.

**LENGTH OF TRIAL:** Four months.

**TRIAL JUDGE:** William Fernandez

**987.9 JUDGE:** Tim Buckley



PEOPLE V. YOCUM

**LOCATION OF TRIAL:** Santa Clara County

**RESPONSIBLE COUNTY:** Kings County

**DATE OF CRIME:** December 1984

**DATE OF ARREST:** December 1984

**STATUS:** Two trials. First trial for conspiracy and solicitation. Second trial for first degree murder with special circumstances filed. Defendant convicted of first degree murder with a finding of special circumstances for the murder of the mother. Second degree murder for the murder of the father. Defendant sentenced to life without possibility of parol.

**FACTS:** Son hired others to kill his wealthy parents to collect the inheritance.

**INVESTIGATION:** Defense used a private investigator for the following: (1) interview witnesses for the case-in-chief; (2) take additional photographs; (3) deliver subpoenas; and (4) interview witnesses for the penalty phase. Some out-of-state travel was involved. Prosecution used the Sheriff's Office.

**EXPERTS:** All Department of Justice Experts. Defendant had psychiatrists.

**EXHIBITS:** Two hundred and fifty routine exhibits, e.g., bullets, pictures, diagrams.

**WITNESSES:** District attorney called sixty witnesses. Out-of-town trial involved transport of some witnesses from prison.

**LENGTH OF TRIAL:** First trial July 1985 to November 1985. Second trial February 1986 to May 1986.

**TRIAL JUDGE:** William Fernandez

**987.9 JUDGE:** Tim Buckley

PEOPLE V. SPULLER

**LOCATION OF TRIAL:** Trinity County

**RESPONSIBLE COUNTY:** Trinity County

**DATE OF CRIME:** Not available.

**DATE OF ARREST:** Not available.

**STATUS:** Defendant was found not guilty by reason of insanity. No Special Circumstances filed.

**FACTS:** Defendant was a recluse living in the mountains. He encountered a hiking couple. Defendant believed the couple was monitoring his brain waves. He followed the couple and fatally shot the man and seriously injured the woman.

**INVESTIGATION:** The primary issues were the sanity, competence and voluntariness of the statements of the defendant. The defendant's mental history was investigated. Also, travel to Oregon to interview defendant's relatives.

**EXPERTS:** Psychiatrists and psychologists. Two were appointed pursuant to Penal Code Sections 1368 and 1026.

**EXHIBITS:** Many but nothing elaborate. Generally a reconstruction of the campsite and other physical evidence.

**WITNESSES:** Other than expert witnesses, most were backpackers in the area at the time of the killing.

**LENGTH OF TRIAL:** Two weeks

**TRIAL JUDGE:** John K. Letlon

**987.9 JUDGE:** Robert W. Weir

PEOPLE V. MURRELL

**LOCATION OF TRIAL:** Modoc County

**RESPONSIBLE COUNTY:** Lassen County

**DATE OF CRIME:** 1983

**DATE OF ARREST:** 1983

**STATUS:** At first trial, defendant was found incompetent to stand trial. Returned to court as competent to stand trial in 1986. Prosecuted for first degree murder and found guilty of second degree murder. Currently on appeal.

**FACTS;** Defense counsel was initially privately retained. The family ran out of money, and, the privately retained counsel was court appointed as a public defender. Defendant followed a couple down the highway and bumped the rear of their car while traveling down the highway. The couple's car swerved off the road. Defendant shot twice killing the woman, while the man fled.

**INVESTIGATION:** Private investigator was used. Most of the investigation was of a party held on the evening of the crime at which the Defendant and victim were present. Also investigation of possible narcotics use was made.

**EXPERTS;** Many nationally known psychiatrists were used for the defense. Prosecution used county mental health department.

**EXHIBITS:** Nothing elaborate, photographs

**WITNESSES:** All witnesses from Lassen County had to travel approximately 120 miles to Alturas in Modoc County. Experts travel. Five witnesses at first trial, fifteen at the second.

**LENGTH OF TRIAL:** First trial - one week. Second trial - three weeks.

**TRIAL JUDGE:** Guy Martin Young

PEOPLE V. ANDERSON

**LOCATION OF TRIAL:** Merced County

**RESPONSIBLE COUNTY:** San Benito County

**DATE OF CRIME:** 1979

**ARREST OF DEFENDANT:** 1979

**STATUS:** Plea bargain reached immediately prior to trial, defendant pleaded guilty to first degree murder and sentenced to life without possibility of parol.

**FACTS:** Defendant killed all members of a family of four: Mother and father, 15 year old son, and three year old daughter. Defendant disposed of the bodies by cutting up and pouring acid over them and placing them in a burn pit.

**EXPERTS:** Coroner pathologist, psychiatrist, anthropologists, forensic chemtologists.

**INVESTIGATION:** Excavation of county dumes searching for body fragments. Background investigation of defendant. Prosecution and defense used private investigator. Laboratory work.

**WITNESSES:** Main prosecution witness was chemist who was consulted by defendant on how to dispose of bodies.

**TRIAL JUDGE:** Michael S. Hider

**987.9 JUDGE:** Thomas P. Breen

**LENGTH OF TRIAL:** No trial.