

REIMBURSEMENT
TO COUNTIES AND CITIES
FOR
THE CLANDESTINE LABORATORY ENFORCEMENT PROGRAM

112409

U.S. Department of Justice
National Institute of Justice

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GRAY DAVIS

STATE CONTROLLER

November 16, 1987

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ACQUISITIONS

INTRODUCTION

The California State Legislature has determined that there has been a recent and rapid expansion in clandestine laboratories illegally producing a variety of controlled substances. These are increasingly sophisticated operations frequently located in rural areas or working across jurisdictional lines, which pose substantial dangers to the general public from fire, explosion, and the toxic chemicals involved. The controlled substances these laboratories produce, such as analogs of fentanyl, phencyclidine, and methamphetamine, are extremely difficult to detect and analyze and have caused numerous deaths and serious injuries to those who use them.

To combat further expansion and eradicate unlawful activities, the Legislature has enacted a law, Chapter 1029, Statutes of 1986, effective January 1, 1987, to establish a Clandestine Laboratory Enforcement Program to assist state and local law enforcement and prosecutorial agencies in apprehending and prosecuting persons involved in the unlawful manufacturing of controlled substances. Under certain circumstances, the law would also provide financial assistance to smaller counties for the following:

- o Defray the costs of prosecuting clandestine laboratory offenses,
- o Defray law enforcement personnel costs incurred in investigating clandestine laboratory offenses, and
- o Defray the cost of removal, storage and/or disposal of toxic waste from the site of a clandestine laboratory.

Pursuant to Section 11646 of the Health and Safety Code, the Attorney General's Office of the Department of Justice is required to establish rules and regulations for the Clandestine Laboratory Enforcement Program. These rules and regulations are currently in the process of adoption under Chapter 8.5 of Title 11, California Administrative Code.

Claiming instructions contained herein, prepared by the Department of Justice in consultation with the State Controller's Office, are tentative since they are based on proposed rules and regulations. Finalized claiming instructions will be issued when the proposed rules and regulations have been approved by the California Office of Administrative Law.

ELIGIBLE COUNTIES (The term "counties" includes any city within the eligible county.)

Counties with a population of less than 1,250,000, as of January 1, 1987, may apply to the State Controller's Office for financial assistance to support the law enforcement and prosecutorial efforts of apprehending and prosecuting persons involved in the unlawful manufacture of controlled substances.

COUNTIES WITH A POPULATION LESS THAN 1,250,000

Counties with a population of less than 1,250,000 as of the 1980 Decennial Census are listed below:

Alpine	Kern	Placer	Siskiyou
Alameda	Kings	Plumas	Solano
Amador	Lake	Riverside	Sonoma
Butte	Lassen	Sacramento	Stanislaus
Calaveras	Marin	San Benito	Sutter
Colusa	Madera	San Joaquin	Tehama
Contra Costa	Mariposa	Santa Barbara	Trinity
Del Norte	Mendocino	San Bernardino	Tuolumne
El Dorado	Merced	San Mateo	Ventura
Fresno	Modoc	San Francisco	Yolo
Glenn	Monterey	Santa Cruz	Yuba
Humboldt	Mono	San Luis Obispo	
Imperial	Nevada	Shasta	
Inyo	Napa	Sierra	

The legislation has authorized special assistance for prosecution and law enforcement investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 of the Health and Safety code, initiated after January 1, 1987. Special assistance is also available for costs incurred in the removal, storage, and/or disposal of toxic waste from clandestine laboratories. This special assistance is available for the cost of activities undertaken following the filing in the Superior Court, or an indictment by the grand jury.

Under Health and Safety code Section 11642: (a), a county/city may apply for state assistance, for each prosecution or joint prosecution assisted not to exceed twenty-five thousand dollars (\$25,000); (b), a county/city may apply for state assistance for law enforcement personnel expenses not to exceed ten thousand dollars (\$10,000); (c) a county/city may apply for state assistance to remove and dispose of or store toxic waste from the sites of laboratories used to manufacture controlled substances.

Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support these efforts of the county/city. Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), and the Major Narcotic Vendors Prosecution law (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

REIMBURSEMENT TO PROSECUTORIAL AGENCIES

The district attorney's office may be reimbursed to defray the costs of prosecuting violations, attempts to violate, or conspiracies to violate sections of the Health and Safety Code as follows:

- o Section 11100. Person required to submit reports.
- o Section 11100.1. Substances received from outside state.
- o Section 11104. Penalty for selling or furnishing specified substances.
- o Section 11105. False statement: punishment.
- o Section 11379.6. Manufacturing of controlled substances by chemical extraction or chemical synthesis.
- o Section 11383. Possession of specified combinations of substances with intent to manufacture.

(Text to the above sections is detailed on Attachment C)

Reimbursement is provided for those cases where the person or persons was apprehended for violation of one or more of the above sections after January 1, 1987. The amount of reimbursement is limited up to twenty-five thousand dollars (\$25,000) for each prosecution or joint prosecution assisted.

Reimbursement may include, but is not limited to, costs of attorneys, investigators, expert witnesses, travel expenses, material and supplies, etc. See Page 6 to 7 for reimbursable rates. Costs that are not reimbursable include court costs and departmental overhead.

All funds sent to the county/city must be distributed by it only to its prosecutorial department, to be used solely for the prosecution of these offenses. These funds shall not be used to supplant any local funds that would, in absence of this program, be made available to support the prosecutorial efforts of the county/city.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to the following, shall not be entitled to reimbursement under this program.

- o Section 11489, Health and Safety Code. Asset Forfeiture Program.
(Text to this section is detailed on Attachment D)
- o Section 13881, Penal Code. Major Narcotic Vendors Prosecution Law.
(Text to this section is detailed on Attachment F)
- o Section 13851, Penal Code. California Career Criminal Apprehension Program.
(Text to this section is detailed on Attachment E)

REIMBURSEMENT TO LAW ENFORCEMENT AGENCIES

Law enforcement agencies may be reimbursed to defray personnel costs in the investigation of violations, attempts to violate, or conspiracies to violate sections of the Health and Safety Code as follows:

- o Section 11100. Person required to submit reports.
- o Section 11100.1. Substances received from an outside state.
- o Section 11104. Penalty for selling or furnishing specified substances.
- o Section 11105. False statement: punishment.
- o Section 11379.6. Manufacturing of controlled substances by chemical extraction or chemical synthesis.
- o Section 11383. Possession of specified combinations of substances with intent to manufacture.

(Text to the above sections is detailed on Attachment C)

Reimbursement is provided for those cases which involve investigation of person or persons for the violation of one or more of the above sections after January 1, 1987. The amount of reimbursement is limited up to ten thousand dollars (\$10,000) per case.

Reimbursement may include, but is not limited to, costs of investigators, travel expenses, material and supplies, etc. See Page 7 to 8 for reimbursable rates. Costs that are not reimbursable include departmental overhead.

All funds sent to the county/city must be distributed by it only to its law enforcement department, to be used solely for the investigation and detection of these offenses. These funds shall not be used to supplant any local funds that would, in absence of this program, be made available to support the investigation efforts of the county/city.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to the following, shall not be entitled to reimbursement under this program.

- o Section 11489, Health and Safety Code. Asset Forfeiture Program.
(Text to this section is outlined on Attachment D)
- o Section 13851, Penal Code. California Career Criminal
Apprehension Program.
(Text to this section is outlined on Attachment E)
- o 21 U.S.C. Sec. 881. Federal Asset Forfeiture Program.
(Text to this section is outlined on Attachment G)

REIMBURSEMENT FOR THE REMOVAL, DISPOSAL OR STORING OF TOXIC WASTE

Law enforcement agencies may be reimbursed to defray the costs of removing, disposing of or storing toxic waste from the site of laboratories used for the unlawful manufacture of a controlled substance.

Reimbursement is available for contracting a state licensed hazardous waste hauler for the packaging, transportation, storage and disposal of hazardous/toxic chemicals generated in the manufacturing of illicit controlled substances. The agency shall conform to that agency's normal procurement procedures for contracting.

- o Removal

All reasonable and necessary costs incurred for specialized packaging equipment, standard labor rate for hauling, and transportation are reimbursable.

- o Storage

All reasonable and necessary costs incurred in rental or storage fees for maintaining hazardous or toxic substances pending destruction or adjudication are reimbursable.

- o All reasonable and necessary costs incurred in the transportation and proper disposal of hazardous or toxic waste by a state licensed hazardous waste hauler are reimbursable.

REIMBURSABLE COSTS AND RATES

All costs claimed for reimbursement will be reviewed to determine that such costs are reasonable and necessarily incurred by the county/city as a result of the criminal action which would not have occurred but for the action.

Any costs claimed for reimbursement at rates exceeding those presented in the accompanying guidelines must be justified by extenuating circumstances. The nature of such extenuating circumstances must be adequately explained and documented.

To facilitate timely reimbursement of claims for costs associated with any criminal action anticipated to fall within the scope of Section 11642 of the Health and Safety Code, all fees or costs which exceed the accompanying guidelines should be submitted to the State Controller for prior review. The justification can then be evaluated and any difference between the State Controller and the county/city can be identified and resolved prior to audit of claims.

A. Attorney Fees

- Normal salaries and benefits for county/city employees (attorneys) are reimbursable. Overtime and fringe benefits actually paid may be reimbursable if such overtime is directly attributable to the particular case. The necessity, duration, and extent of the overtime must be fully explained and authorized by the appropriate supervisor in writing, and must be documented in accordance with written personnel policies. Overtime documentation must be retained for audit examination.
- All contracted attorneys and their support personnel must have a written contract indicating the rate of compensation including that for trial work, overtime, and expenses. The contract with non-city/non-county personnel shall specify the fee or rate of pay, and the treatment of overtime if applicable.

B. Expert Witnesses

- Where allowed by the court, subpoenaed witness fees and expenses may be reimbursed at rates or amounts determined pursuant to Penal Code Section 1329. The pertinent subpoena and the court order must be retained for audit examination.
- Costs for expert witnesses appointed by the court pursuant to Evidence Code Section 730 may be reimbursed. The court orders appointing such expert witnesses and establishing compensation for same, must be retained for audit examination.

C. Investigators

- The costs of licensed investigators are reimbursable at a rate not to exceed the prevailing rate paid investigators performing similar services. The cost of an investigation conducted by an attorney is reimbursable if the investigating attorney is not an attorney of record for the case. Such reimbursement shall not exceed the prevailing rate paid investigators performing similar services. For the purpose of this section, "investigation" does not include legal research or legal representation.

D. Law Enforcement Personnel

- Normal salaries and benefits for employees are reimbursable. Overtime and fringe benefits actually paid may be reimbursable if such overtime is directly attributable to the particular case. The necessity, duration, and extent of the overtime must be fully explained and authorized by the appropriate supervisor in writing and must be documented in accordance with written personnel policies. Overtime documentation must be retained for audit examination.

E. Travel expenses

- Travel expenses for mileage, room and board, and per diem, may be reimbursable in accordance with the rules of the local jurisdiction. In absence of such rules, travel and subsistence expenses may not exceed the State Board of Control rates as outlined in Title 2, California Administrative Code, Sections 700 through 715 and Section 718 (Refer Attachment B)

Documentation supporting travel and per diem expenses shall reasonably conform to state travel expense claims and generally set forth the following information:

- (1) Name and address (business and residential of person incurring the expenses).
- (2) Date and time of departure and return for each trip.
- (3) Description of each expense claimed.
- (4) If a private automobile is used, the number of miles traveled.
- (5) Cost of commercial transportation. Appropriate receipts should be attached with the claim.
- (6) Amount of carfare, bridge tolls and parking charges, with receipt of any charge exceeding \$2.50.

F. Material and supplies.

- All costs of material and supplies may be reimbursable. "All Costs" means reasonable and necessary costs incurred.

G. Reimbursable miscellaneous costs

- The cost of equipment rental may be reimbursed. To be reimbursable, rental costs must be incurred solely for the investigation. Rental contract(s) must be retained for examination. Examples of equipment rental are as follows: specialized surveillance equipment, the rental of a van or truck to haul large apparatus commonly associated with clandestine laboratories, portable generators for electrical power at rural locations, storage facilities for temporary storage of apparatus pending adjudication, etc.
- Costs for the purchase of personnel protective equipment used to eliminate toxic chemical exposure are reimbursable. Examples of personnel protective equipment are as follows: chemical retardant suits, gloves, shoe covers and goggles. All invoices for such purchases must be retained for examination.

H. Costs that are not allowable include, but are not limited to:

- Administrative and countywide indirect overhead costs except in those cases where it can be identified that additional support services were required due to an investigation
- Accounting and auditing costs
- Costs that are incurred in any event and thus do not represent expenses directly added to the county/city budget by the investigation.

Submission of Reimbursement Claims

The county/city should submit claims for reimbursement on the Statement of Costs (FAM 46), to the State Controller's Office. In addition, a separate Cost Report (FAM 47A, B, C) for each department which incurred costs under this program should be attached to the Statement of Costs.

Sufficient detail and supporting documentation must be included with the Cost Report as evidence that expenditures were authorized by the provisions of Section 11642 of the California Health and Safety Code. Examples of supporting documentation are as follows: the contracted attorney's statement of costs, transportation expense vouchers, invoices of chemical company billings, etc. If the Cost Report includes normal salaries and benefits of county/city employees, the supporting documentation may be kept on file.

Submit three copies of the Statement of Costs and two copies of the Cost Report with each reimbursement claim. Claims should be submitted upon the completion of each case.

Claims and related correspondence should be sent to:

State Controller's Office
Division of Accounting
P.O. Box 942850
Sacramento, CA 94250-5875

Telephone (916) 322-4479
ATSS 492-4479

Payment of Claims

Claims are paid by the State Controller after review and approval. If the budgeted appropriation for this program is insufficient, claims will be paid in order of receipt.

Audits will be conducted by the State Controller as deemed necessary. Accordingly, documentation should be retained for audit purposes for a period of no less than 3 years from the date of the final payment or the final judgement for the clandestine lab case, whichever comes later.

Claim Certification

A claim cannot be processed for payment unless it is properly certified by the county. A county must designate an officer or a representative for the agency who shall be authorized to certify and submit claims with the State Controller's Office.

The claim certification which appears on the Statement of Costs (FAM-46) reads as follows:

"In accordance with the provisions of Health and Safety Code Section 11642, I certify that I am the person authorized by the local agency to file claims with the state of California for the cost of the Clandestine Laboratory Program; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive."

"I further certify that the amount claimed would not be used to supplant local funds and that there are no applications for nor any grants or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for the Clandestine Laboratory Program."

If the statement concerning the claim is true and correct, the authorized representative may sign the claim. In addition, the claim must be dated and include that person's name and title, typed or printed.

Department of Justice Review

The State Controller's Office shall submit a copy of the claim and supporting data to the Department of Justice, Bureau of Narcotic Enforcement's Clandestine Laboratory Coordinator for review prior to payment of each claim.

STATE OF CALIFORNIA

STATE CONTROLLER USE ONLY

Amount Approved

Claim for payment of costs under
Section 11642 of the Health and
Safety Code.

FILED _____

PAYEE _____

\$ _____

1. COUNTY/CITY SUBMITTING CLAIM:

ADDRESS _____

Total

\$ _____

By: _____ Date: _____

2. CASE NAME & NUMBER:

3. REASON FOR CLAIM: (Indicate the type of costs and amounts claimed)

a. ☐ Cost of Prosecution \$ _____b. ☐ Cost of Law Enforcement \$ _____c. ☐ Cost of Removal, Disposal of Toxic Waste \$ _____

4. CERTIFICATION OF CLAIM:

In accordance with the provisions of Health and Safety Code Section 11642, I certify that I am the person authorized by the local agency to file claims with the State of California for the cost of the Clandestine Laboratory Program; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that the amount claimed would not be used to supplant local funds and that there were no applications for nor any grants or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for the Clandestine Laboratory Program.

The amount of \$ _____ (3a + 3b + 3c) is hereby claimed from the State for the cost of the Clandestine Laboratory Program set forth on the attached statement.

Date _____

Signature of _____

Authorized Representative

5. Treasurer's Mailing Address

Type Name _____

Title _____

(Name of Entity)

(County)

(Street Address)

(City)

(Zip)

6. Contact Person for Claim:

Name _____

Telephone Number _____

SUBMIT THREE COPIES OF THE CLAIM FORM
AND TWO COPIES OF THE SUPPORTING DATA
TO: STATE CONTROLLER, DIVISION OF ACCOUNTING,
P.O. BOX 942850 SACRAMENTO, 94250-5875.

FAM-46 (11/87)

Instructions for Completing and Certifying the Claim Form

1. Enter the name and address of county/city filing the claim
2. Enter the name (defendant) of the case and number or other appropriate description to identify the case. Limit one case to a claim form.
3. Check the appropriate box or boxes for which the claimant is seeking reimbursement. Also enter the amount claimed for the box or boxes checked.
4. Read the statement "Certification of Claim". If the statement is true, enter the total amount claimed. The claim form must be dated, and signed by the entity's authorized representative, and must include that person's name and title, typed or printed. Claims cannot be paid unless accompanied by a signed certification.
5. Enter the treasurer's mailing address where the payment is to be sent.
6. Enter the name of the person and the telephone number this office may contact if additional information is required for the claim.

MAILING ADDRESS FOR FILING CLAIMS

State Controller
Division of Accounting
P. O. Box 942850
Sacramento, CA 94250-5875

Please submit three copies of the claim form and two copies of the supporting data.

CLAIM FOR REIMBURSEMENT OF THE CLANDESTINE LABORATORY ENFORCEMENT PROGRAM
Section 11642(a) of the Health and Safety Code
Costs of Prosecution

COUNTY/CITY OF _____ CLAIM PERIOD _____ TO _____

CASE NAME & No. _____ DATE INCIDENT OCCURRED _____

Indicate whether the county/city has funds available during the fiscal year of the claim for any of the following programs. If "yes", and all the funds for that program have been spent, indicate the date from your accounting records which show when the funds were depleted. Cases reimbursed by other state or federal programs are not entitled to reimbursement under the Clandestine Laboratory Enforcement Program. In addition, local monies budgeted for purposes the same as this program must be fully expended before requesting state assistance.

- ## 1. Asset Forfeiture Program

YES ☐ NO ☐ Date depleted _____

- ## 2. The California Career Criminal Apprehension Program

YES ☐ NO ☐ Date depleted _____

- ### 3. Major Narcotic Vendors Prosecution Law

YES ☐ NO ☐ Date depleted _____

4. Other Program _____

YES ☐ NO ☐ Date depleted _____

- ## 5. Local Monies Budgeted for Program

Yes ☐ No ☐ Date depleted _____

Salaries and Benefits

In addition to the requested information which follows, give a description of the specific functions performed by each named employee relative to the program.

[illegible]

Expert Witnesses

List the names of expert witnesses, field of expertise, and fees.

	<u>Names</u>	<u>Dates of Service</u>	<u>Field of Expertise</u>	<u>Fees</u>
a.				
b.				
c.				
d.				
				<u>Sub-total</u> \$ <u> </u>

Material and Supplies

List the costs of material and supplies, and equipment rentals which were used exclusively for the purpose of the program.

	<u>Description of Material and Supplies</u>	<u>Quantity</u>	<u>Costs</u>
a.			\$
b.			
c.			
d.			
			<u>Sub-total</u> \$ <u> </u>

Travel Expenses

Travel expenses for mileage, room and board, and per diem may be reimbursable in accordance with the rules and regulations of the local jurisdiction. In absence of such rules, expenses may not exceed the State Board of Control rates.

	<u>Names</u>	<u>Inclusive Dates of Travel</u>	<u>Destinations</u>	<u>Costs</u>
a.				
b.				
c.				
d.				
				<u>Sub-total</u> \$ <u> </u>

Contracted Services

Show the names of contractors, describe the specific activity performed relative to the program, dates of appointment, and itemized costs for such services. Attach a copy of all contractor invoices with the claim.

<u>Names</u>	<u>Dates of Service</u>	<u>Activity Performed</u>	<u>Costs</u>
a.			
b.			
c.			
d.			
			<u>Sub-total</u> \$_____
			<u>Total</u> \$_____
Less: Costs payable from local monies budgeted for the same purposes as this program.			\$_____
Reimbursement from any other state or federal program.			
			<u>Sub-total</u> \$_____
Amount Claimed for the Case			\$ <u> </u>

Material and Supplies

List the costs of material and supplies, and equipment rentals which were used exclusively for the purpose of the program.

<u>Description of Material and Supplies</u>	<u>Quantity</u>	<u>Costs</u>
a.		\$
b.		
c.		
d.		
		<u>Sub-total</u> \$_____

Travel Expenses

Travel expenses for mileage, room and board, and per diem may be reimbursable in accordance with the rules and regulations of the local jurisdiction. In absence of such rules, expenses may not exceed the State Board of Control rates.

<u>Names</u>	<u>Inclusive Dates of Travel</u>	<u>Destinations</u>	<u>Costs</u>
a.			
b.			
c.			
d.			
			<u>Sub-total</u> \$_____

Contracted Services

Show the names of contractors, describe the specific activity performed relative to the program, dates of appointment, and itemized costs for such services. Attach a copy of all contractor invoices with the claim.

<u>Names</u>	<u>Dates of Service</u>	<u>Activity Performed</u>	<u>Costs</u>
a.			
b.			
c.			
d.			
			<u>Sub-total</u> \$_____
			<u>Total</u> \$_____
Less:	Costs payable from local monies budgeted for the same purposes as this program.		\$_____
	Reimbursement from any other state or federal program.		
			<u>Sub-total</u> \$_____
		Amount Claimed for the Case	\$_____

STATE OF CALIFORNIA
COST REPORT (FAM 47C) 11/87

STATE CONTROLLER'S OFFICE

CLAIM FOR REIMBURSEMENT OF THE CLANDESTINE LABORATORY ENFORCEMENT PROGRAM
Section 11642(c) of the Health and Safety Code
Costs of Removal and Disposal of Controlled Substances

COUNTY/CITY OF _____ CLAIM PERIOD _____ TO _____

CASE NAME & No. _____ DATE INCIDENT OCCURRED _____

Contracted Services

Show the names of contractors, describe the specific activity performed relative to the program, dates of appointment, and itemized costs for such services. Attach a copy of all contractor invoices with the claim.

	<u>Names</u>	<u>Dates of Service</u>	<u>Activity Performed</u>	<u>Costs</u>
a.				
b.				
c.				
d.				
				<u>Sub-total</u> \$ _____
				<u>Total</u> \$ _____
Less:	Costs payable from local monies budgeted for the same purposes as this program.			\$ _____
	Reimbursement from any other state or federal program.			
				<u>Sub-total</u> \$ _____
				<u>Amount Claimed for the Case</u> \$ _____

APPENDIX

HEALTH AND SAFETY CODE SECTIONS 11641 THRU 11642

THE CLANDESTINE LABORATORY ENFORCEMENT PROGRAM

The Department of Justice shall establish a Clandestine Laboratory Enforcement Program to assist state and local law enforcement officials and prosecutorial agencies in apprehending and prosecuting persons involved in the unlawful manufacture of controlled substances.

Section 11642 (a) Reimbursement for prosecutions

To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars (\$25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties. Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

Section 11642 (b) Reimbursement for law enforcement personnel expenses

To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for law enforcement personnel expenses, not exceeding ten thousand dollars (\$10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

Section 11642 (c) Reimbursement for toxic waste removal, storage, or disposal.

To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

Section 11642 (d) Population

For the purposes of this section, the population of a county shall be as determined by Section 28020 of the Government Code.

Section 11642 (e) When applications for reimbursement can be filed

Reimbursement under this section may be provided only with respect to costs incurred on or after January 1, 1987.

TITLE 11, CALIFORNIA ADMINISTRATIVE CODE

SECTIONS 700 - 715, AND SECTION 718

700. Scope.

It is the purpose of this Article to provide reimbursement for the necessary out-of-pocket expenses incurred by state officers and employees because of travel on official state business. Each state agency is charged with the responsibility of determining the necessity for, and the method of, travel, provided, however, that once such necessity has been determined, reimbursement shall be governed by these rules. It is the intent of the Board that state agencies shall not have discretion to provide reimbursement at a lower amount than contained in Board rules, unless such discretion is specifically mentioned. Language of this article providing a specific time, distance, or amount shall be rigidly interpreted. Language such as "not more than" or "up to" a specified amount shall be interpreted as a rigid ceiling with departmental discretion below such ceiling.

701. Definitions.

For the purposes of this Article, the following definitions will apply:

(a) Headquarters. Headquarters shall be established for each state officer and employee and shall be defined as the place where the officer or employee spends the largest portion of his regular workdays or working time, or the place to which he returns on completion of special assignments or as the Board of Control may define in special situations.

(1) Where an office building or similar definite place constitutes the employee's headquarters, no per diem expenses shall be allowed at any location within 25 miles of said headquarters as determined by the normal commute distance.

(2) Where the major portion of an employee's working time is spent within a specifically assigned or limited geographical area, such as a patrol area or beat where the same routes are traveled frequently and routinely on one-day trips, or such as different campuses or teaching locations associated with a college, no per diem expenses shall be allowed at any location within 25 miles from any point in this assigned area as determined by the normal commute distance.

In order to insure equity in special cases, agency heads may disregard this subsection and authorize individual claims based on subsection (1) of this rule.

(3) In cases where adherence to the 25-mile limitation creates and unusual and unavoidable hardship to the officer or employee, exceptions may be granted by the Board of Control.

(4) Employees on travel status for less than 24 hours may claim subsistence expenses incurred before or after the regularly scheduled work day in accordance with Section 706(c)(1) provided the departure time or return time exceeds the regularly scheduled worked day by one hour.

(b) Residence. A place of primary dwelling shall be designated for each state officer and employee. A primary dwelling shall be defined as the actual dwelling place of the employee and shall be determined without regard to any other legal or mailing address. However, if an employee is temporarily required to dwell away from his primary dwelling place due to official travel away from headquarters, and said primary dwelling is either inhabited by his dependents or is maintained by the employee at a net monthly expense in excess of \$200, such dwelling place may be continued as the employee's designated primary dwelling.

(1) No reimbursement for per diem or other subsistence expenses shall be allowed on the premises of an employee's residence.

(2) An employee shall have only one residence at which travel expenses are prohibited. In any case, where an employee maintains more than one dwelling, meeting the definition of residence set forth in subsection (b) above, the agency head shall designate the one place which bears the most logical relationship to the employee's headquarters.

(c) Travel Expenses. Travel expenses include:

(1) Per Diem Expenses. Per diem expenses consist of the charges and attendant expenses for meals and lodging and all charges for personal expenses incurred while on travel status.

(2) Business Expenses. Business expenses consist of the charges for business phone calls and telegrams; emergency clothing, equipment or supply purchases; and all other charges necessary to the completion of official business. Any emergency purchase shall be explained, and if over \$25 must be approved by the department head, deputy, or chief administrative officer.

(d) Protective Services. A member of the California State Police assigned as provided by Government Code Section 14613, or a member of the California Highway Patrol assigned to supplement State Police capabilities under Section 14613, may claim subsistence allowance for in-state travel as follows:

(1) If expenses actually incurred by the employee while traveling with the protected individual exceed the per diem allowance authorized by Board of Control Rule 706(b).

(2) Any expense claim submitted under (1), must contain a certification by the Chief of the California State Police naming the individual being protected and verifying that the travel expenses were incurred while the claimant was assigned to protect said individual.

(3) Claims submitted under this section shall not be subject to the limitations of subsection 701(a).

(e) Faculty Exchange Program. When an employee of the California State University and Colleges participates in a faculty exchange program at a campus more than 160 kilometers (100 miles) distance from the home campus or his residence, whichever is less, transportation expenses for one round trip shall be allowed in accordance with Section 711.

702. Discontinuance of Subsistence Allowances.

(a) Except in the case of state elected officials, Short Term Subsistence Allowances authorized by Rule 706(a)(1) will be discontinued after the 30th consecutive day in one location unless a continuation has been approved in advance by the department director, or equivalent.

(b) Long-Term and Non-Commercial Subsistence Allowances authorized by Rule 706(a)(2), 706(a)(3) may be continued beyond thirty days without the approval of the department director, or equivalent.

703. Report of Reimbursed Expense Time Away from Headquarters.

(a) Any officer or employee whose headquarters is fixed by the Board of Control, who spends the equivalent of more than 10 days a month in his official duties, who receives a salary plus subsistence expenses, and who is away from headquarters and claims travel expense in any one location for more days in any one month than he spent at his headquarters, in each of three or more months in any calendar year, shall file a report thereof with the board.

(b) The report shall contain a statement of the days for which travel expense was claimed away from headquarters during the year and the location at which such expense was incurred. Such reports shall specify those circumstances inherent in the reportee's work assignments which will justify continuation of the headquarters as established by the board. Such reports shall be submitted by the 15th of the month following the third month in which the travel expense was claimed.

704. Expense Account Form.

(a) No travel expense account shall be paid unless rendered upon a Travel Expense Claim, Standard Form 262 or upon some other form approved by the Controller. All expense accounts shall be properly itemized, accompanied by the necessary vouchers and approved by the duly authorized officer. It is the responsibility of the officer approving the claim to ascertain the necessity and reasonableness of incurring expenses for which reimbursement is claimed.

(b) Expense accounts shall be rendered at least once a month and not more often than twice a month except that if the amount claimable for any month does not exceed \$10, the filing may be deferred until the total amount claimable exceeds \$10 or until June 30, whichever occurs first. At the end of a fiscal year, travel expenses claimed for July 1 and beyond must be on a separate travel expense claim from those claimed for June 30 or earlier. In no event shall expense accounts totaling less than \$1 be rendered or paid.

(c) Each officer and employee when making a claim for travel expenses must show the inclusive dates of each trip for which allowances are claimed and the times of departure and return. Time of departure and return, as used herein, means the time employee starts from or returns to his office or, when leaving on a trip or returning from a trip without going to the office, his home.

(d) Each officer and employee must state the purpose or objective of each trip for which reimbursement is claimed, and for each meal for which reimbursement is claimed under Rules 707 and 708.

(e) Each state officer and employee must show his headquarters address and his primary dwelling address on the Travel Expense Claim. Employees claiming subsistence expenses pursuant to Section 706(a)(2)(B) will show their headquarters address as the address of their primary dwelling.

(f) Each claim for the payment of travel expenses shall contain a certification as follows:

I hereby certify that the above is a true statement of the travel expenses incurred by me in accordance with Board of Control rules in the service of the State of California, and that all items shown were for the official business of the State of California.

706. Subsistence Allowance.

When state officers and employees are on travel status as defined in this Article, payment of a subsistence allowance will be authorized by the Board of Control for both in-state and out-of-state travel. The circumstances of travel will determine the rate allowed. Agencies will authorize payment for lodging, meals and incidental expenses as claimed by the employee in accordance with Section 706(c). Each agency will be responsible for determining which of the following allowances is applicable:

(a) In-State Subsistence Allowance.

(1) Short-Term Allowance. A short-term allowance will be authorized when the circumstances and duration of travel are such that the traveler incurs expenses comparable to those arising from the use of good, moderately priced establishments, catering to the general public. The short-term allowance is intended for trips of such duration that weekly or monthly rates are not obtainable.

(2) Long-Term Allowance. A long-term allowance will be authorized when the circumstances of travel are such that the traveler incurs expenses in one location comparable to those arising from the use of establishments catering to the long-term visitor.

(A) An employee on long-term field assignment away from his headquarters who maintains a permanent residence elsewhere while living at the job location will be authorized the full allowance provided one of the following conditions exists:

1. Permanent residence is occupied by employee's dependents, or
2. Permanent residence is being maintained at a net expense to him in excess of \$200 per month.

To qualify for this allowance, an employee must submit whatever evidence his agency may require substantiating the existence of either condition 1 or 2.

(B) An employee on long-term field assignment away from his headquarters who does not maintain a permanent residence away from the job site in accordance with Section 706(a)(2)(A) will be authorized an allowance equal to one-half the amount of the long-term allowance rounded to the nearest dollar.

(C) Employees will be eligible to claim the appropriate allowance for every 24-hour period on travel status. Allowances for partial day travel status will be as follows:

1. Less than 12 hours, one-half the appropriate allowance, rounded to the nearest dollar,
2. From 12 to 24 hours, the full allowance

(3) Non-Commerical Allowance. A non-commercial allowance will be authorized when the circumstances of travel are such that the traveler incurs expenses comparable to those arising from the use of non-commercial subsistence facilities such as, but not limited to, house trailers or field camping equipment.

(A) Employees will be eligible to claim this allowance for every 24-hour period on travel status. Allowances for partial day travel status will be as follows:

1. Less than 12 hours, one-half the allowance, rounded to the nearest dollar,
2. From 12 to 24 hours, the full allowance

(b) Out-of-State Subsistence Allowance. For out-of-state travel, state elected officials and other employees will be reimbursed actual lodging expenses, supported by a voucher, and reimbursed for meal and incidental expenses in accordance with Section 706(c).

(1) Out-of-Country Subsistence Allowance. When employees are authorized to travel outside the continental United States and continue to maintain a permanent residence either occupied by the employees' dependents or maintained at a net monthly expense in excess of \$200, reimbursement of subsistence expenses may exceed established rates if the agency obtains advance approval of specific rates from the Board of Control.

(c) Computation of Allowances.

(1) In computing the allowance for travel, the following reimbursement will be allowed in any 24-hour period or fractional part thereof: (The following rates are effective for travels subsequent to August 25, 1987).

	<u>Statewide</u>	<u>Designated High Cost Areas</u>
Lodging	\$52.00	Up to \$71.00 with receipt
Breakfast	4.00	5.00
Lunch	7.50	8.50
Dinner	13.50	15.50
Incidentals	<u>4.00</u>	<u>4.00</u>
	\$82.00	Up to \$104.00 with receipt

(2) Designated High-Cost Areas. To be eligible for the higher lodging allowance, the employee must be required to travel to the downtown areas of Anaheim, Burbank, Costa Mesa, Irvine, Long Beach, Los Angeles, Monterey, Newport Beach, Oakland, San Diego, San Francisco, San Jose, San Mateo, or Santa Barbara, and must furnish a commercial lodging receipt for the day(s) of travel which bears one of the following ZIP Codes:

San Francisco: 94102, 94103, 94104, 94105, 94106, 94107, 94108, 94109, 94110, 94111, 94112, 94114, 94115, 94116, 94117, 94118, 94121, 94122, 94123, 94124, 94127, 94129, 94131, 94132, 94133, 94134

Los Angeles: 90004, 90005, 90006, 90007, 90010, 90012, 90013, 90014, 90015, 90017, 90019, 90020, 90021, 90024, 90025, 90028, 90035, 90036, 90038, 90041, 90045, 90046, 90048, 90049, 90057, 90064, 90067, 90069, 90071, 90077, 90210, 90212, 90230, 90245, 90292

Anaheim: 92802, 92805

Burbank: 91601

Costa Mesa: 92626

Irvine: 92714, 92715

Long Beach: 90801, 90802, 90803, 90804, 90815

Monterey: 93940

Newport Beach: 92660, 92663

Oakland: 96406, 94607, 94608, 94621

San Diego: 92101, 92103, 92106, 92108, 92109, 92110

San Jose: 95110, 95111, 95112, 95113, 95121, 95131

San Mateo: 94010, 94030, 94080, 94128

Santa Barbara: 93101, 93105, 93108, 93110, 93117

Receipts bearing other than the above ZIP Codes, or no receipts, will limit reimbursement to the statewide rate of \$75. Rule 710(b) may not be invoked.

(3) An additional \$4.00 incidental allowance may be claimed for each 24-hour period.

(4) Long-Term and Non-Commercial Allowances will be computed at 60% of the statewide rate in Section 706(c)(1), plus the incidental allowance authorized by Section 706(c)(3) rounded to the nearest dollar.

(d) Expenses Outside the State. Expenses incurred outside the State will not be allowed unless authorization for incurring them and permission for absence from the State has first been obtained from the Governor and the Director of Finance, except that in cases where such expenses are incurred by travel to and from places in states bordering upon this State, approval of the Director of Finance only will be required. Any terms or directives set forth in such authorization are limitations and will not operate as exceptions to these rules. A claim for expenses for out-of-state travel must be submitted on a separate expense account. This section shall not apply to committees of the Legislature or of either house thereof nor to employees of any such committee.

(e) Subsistence Expense Negotiated or Paid for by the State. When a significant portion of the subsistence expenses (either meals or lodging) are negotiated or otherwise paid for by the State (e.g., billed to the State, paid by a group leader, included in overnight train fare, etc.), the employee will not be reimbursed for such expenses. The employee will be allowed to claim reimbursement in accordance with Section 706(c) for any subsistence not provided.

707. Meal Expenses.

(a) Overtime Meals. When any state officer or employee is required to work overtime, he may receive an overtime meal allowance for his actual expenses supported by a voucher not to exceed the maximums prescribed in Section 706(c)(1) for lunches. To be eligible for this allowance, he must be required to report to work at least two hours prior to or be required to remain at least two hours past his regularly scheduled work day.

If the officer or employee is required to work for more extended periods of time, he may be reimbursed for his actual meal expenses not to exceed the maximums prescribed in Section 706(c)(1) for each additional six-hour period. No more than three overtime meal allowances may be claimed during any 24-hour period. The meal time shall not be included in the computation of overtime for the purposes of this allowance.

Agencies which operate facilities for feeding officers, employees, and official guest may instead furnish an official guest meal to an employee. Agencies shall maintain a record of all guest meals furnished for this purpose. An employee may not claim reimbursement for an overtime meal nor will he be furnished a meal free of charge if he is also claiming per diem.

(b) Business-Related Meals. When it is necessary for state officers or employees to conduct official state business during a meal, they may be reimbursed for actual meal expenses substantiated by a voucher up to the maximums prescribed in Section 706(c)(1).

In order to claim reimbursement for a business-related meal the circumstances surrounding the meal must be beyond the control of the officer or employee and it must be impractical to complete the business during normal working hours. Officers or employees may not claim reimbursement for a business-related meal if they are also claiming per diem.

Claims for meal expenses where business is incidental to the meal or where the attendance of the employee is primarily for public or community relations are specifically prohibited.

The intent of this section is to allow an agency to reimburse officers and employees for meal expenses in the limited number of instances where they are required to incur such expenses in connection with the conduct of official state business.

(c) Meals of Appointees. Members of non-salaried boards, commissions, and duly-constituted advisory committees may be reimbursed for actual meal expenses up to the maximums prescribed in Section 706(c) when attending board, commission, and committee meetings. The restrictions of Sections 701(a)(1) and 701(a)(4) do not apply. They may not claim this allowance if they are also claiming per diem.

(d) Officers or employees of the Department of Forestry engaged in emergency fire suppression activities may be reimbursed for meal expenses without regard to any limitations imposed elsewhere in these rules. Emergency fire suppression activities are defined as actions taken under emergency conditions to extinguish uncontrolled fires which threaten to destroy life, property, or resources.

708. Attending Conventions, Conference, or Business Meetings.

(a) All regulations governing short-term travel and subsistence allowances will apply except that employees may be reimbursed for actual subsistence expenses, supported by voucher, when the convention or conference is planned and arranged by a non-state agency if such expenses are beyond the control of the employees.

(b) Registration fees will be allowed except for conventions or conferences called by a state agency for the dissemination of information to its own employees. Reimbursement for registration fees exceeding \$50 must be approved by the department head or delegated representative.

(c) Where more than two individuals (officers or employees) from the same department are attending the same convention or conference, each claim must be approved by the department head or delegated representative. This requirement does not apply to a convention or conference called by a state department for purposes of instruction or dissemination of information to its own officers or employees.

(d) Exceptions to these rules may be approved in advance by the Board of Control.

709. Contracting for Subsistence Expenses.

Agreements may be entered into with restaurants, hotels, and lodging houses for the furnishing of subsistence to groups of state employees when such method of handling is advantageous to the State. When such agreements are entered into, the vendor may receive payment either from the group leader or by billing the State on a regular itemized invoice.

(a) Group leaders who pay subsistence expenses for other personnel may claim reimbursement by submitting a vendor's invoice and a list of names of the employees whose expenses were paid.

(b) Members of a group who have some portion of their subsistence expenses paid by the group leader may claim reimbursement for the remainder of their actual and necessary subsistence expenses in accordance with Section 706(e).

(c) The total payment under any such agreement shall not exceed the aggregate of the subsistence allowances otherwise claimable by the participating employees.

710. Receipts or Vouchers.

(a) Receipts or vouchers shall be submitted for every item of expense except as follows:

(1) Railroad and bus fares, where the fares are available in published tariffs, and travel is wholly within the State of California. However, vouchers must be submitted in the case of cash purchases of airplane travel, Pullman accommodations, extra fare train, or travel by any common carrier outside of the State except taxi or hotel bus fares.

(2) Subsistence allowance, except when specified.

(3) Street car, ferry fares, bridge and road tolls.

(4) Long distance telephone or telegraph charges, if date, place and party called are shown, unless the telephone call is in excess of \$2.50 in which case vouchers or other supporting evidence shall be provided.

- (5) Taxi or hotel bus fares, when necessary upon official business.
- (6) All legal expenditures of \$1 or less.
- (7) Parking fees of \$3.50 or else for any one continuous period of parking.
- (b) In cases where receipts cannot be obtained or have been lost, a statement to that effect shall be made in the expense account and the reason given. In the absence of satisfactory explanation the amount involved shall not be allowed.

711. Transportation Expenses.

(a) Transportation expenses consist of the charges for commercial carrier fares; private car mileage allowances; emergency repairs to state cars; overnight and day parking of state or privately-owned cars; bridge and road tolls; necessary taxi, bus, or streetcar fares; and all other charges essential to the transport from and to the official headquarters.

(b) Reimbursement will be made only for the method of transportation which is in the best interest of the State, considering both direct expense as well as officer's or employee's time. Provided the mode of transportation selected does not conflict with the needs of the agency, the officer or employee may use a more expensive form of transportation and be reimbursed at that amount required for a less expensive mode of travel. Both modes of transportation will be shown on the travel claim with reference to this section.

(c) In any case in which reimbursement for expenses of transportation by private automobile or privately-owned airplane is claimed, the license number of the automobile or the civilian airplane license number as well as the name of each state officer, employee, board, commission, or authority member transported on the trip shall be stated. As such reimbursement is for the expense of use of the automobile or airplane regardless of the number of persons transported, no reimbursement for such transportation shall be allowed any passenger in any automobile or airplane operated by another such officer, employee or member.

In the determination of fares or mileage paid for transportation by airplane, the point of origin or return shall be an appropriate airport facility serving the area of the employee's headquarters or residence, whichever results in the lesser distance or amount.

(d) Expenses arising from travel between home or garage and headquarters shall not be allowed. Where a trip is commenced or terminated at claimants home, the distance traveled shall be computed from either his headquarters or home, whichever shall result in the lesser distance.

Exception to the above are:

(1) Where such expenses are incurred by call back for overtime work necessitating more than one trip to the work location on a normal work day or by reason any call back on an employee's normal day off.

(2) When the headquarters of a permanent, full time employee is located 24 or more kilometers (15 or more road miles) one way from the nearest residential area with available housing, the appointing power may authorize payment of expenses incurred by an employee in the use of a privately owned vehicle.

(A) The authorizing agency must obtain prior approval from the Board of Control with regard to the location of the nearest residential area with available housing and amount of mileage to be paid.

(B) Reimbursement will be at the rate provided in Rule 714 (b) for distance driven and authorized in accordance with this rule and being in excess of 48 kilometers (30 miles) round trip.

(C) The term "available housing" as used in this subsection is intended to relate primarily to the quantity of housing available and not to its quality or cost.

(D) Distance will be computed from a location within the selected nearest residential area to the employee's work headquarters by the most direct road route and not the actual miles driven.

(E) If an employee's residence is not located in the designated residential area, but is more than 48 kilometers (30 miles) round trip from his remote location headquarters, he may be reimbursed for travel from his residence or from the selected location within the designated residential area, whichever is less.

(F) Payments will be authorized only if the appointing power has determined that the employee cannot participate in a department sponsored car or van pool.

(G) An employee whose headquarters is designated as remote and who lives in the designated residential area who is required to report to a worksite other than headquarters for a particular day, and who is required to use his own vehicle shall receive payment for the round trip from the designated residential area to the worksite.

(H) An employee whose headquarters is designated as remote and who lives less than 24 kilometers (15 miles) from headquarters, who is required to report to a worksite other than headquarters for a particular day, and who is required to use his own vehicle shall receive payment for the round trip from his own residence to the worksite or his headquarters to the worksite, whichever is less.

(1) An employee whose headquarters is designated as remote, who does not live in the designated area but lives more than 24 kilometers (15 miles) from his headquarters, who is required to report to a worksite other than headquarters for a particular day and who is required to use his own vehicle shall receive payment for the actual round-trip distance by the most direct route, not to exceed:

1. The distance from the designated residential area to the worksite, or

2. The distance from the employee's headquarters to the worksite, whichever is greater.

(3) When travel to or from a common carrier commences or terminates before or after the regularly scheduled work day or on a regularly scheduled day off, distance may be computed from the employee's residence in accordance with section 714(b).

(e) When an employee's regular work assignment requires him to rotate among two or more posts or work stations at different geographic locations within a metropolitan area either to protect state property or state personnel and he is instructed to report directly to the designated post for a full shift, distance from his home to the designated post and return shall be limited to that which exceeds the round trip distance from his home to his designated headquarters, and shall be computed at the rate set forth under rule 714(b). For the purpose of determining the correct distance to be allowed in these situations, headquarters shall be a designated single geographic location or address regardless of whether the employee spends a major or significant portion of his working time there.

(f) No reimbursement will be allowed for transportation expense when the employee uses a privately-owned motorcycle or motor-driven cycle in the conduct of official state business.

712. Special Transportation.

(a) Where it is necessary to hire special conveyances, except automobiles, a full explanation, stating the facts constituting the necessity, shall accompany the expense claim.

(b) Commercial Automobile Rental.

(1) Reimbursement will be for actual and necessary costs of such rental when substantiated by a voucher. Where it is necessary to pay extra charges or premium rental rates for air conditioning, convertible bodystyle, expensive, or other luxury items, a full explanation shall accompany the expense claim.

(2) Reimbursement will not be made for a damage waiver. Reimbursement will be made to the officer or employee for any loss necessarily sustained by him by reason of his not having purchased such waiver.

(c) Where a privately owned bicycle is used in the conduct of official state business, the employee will be allowed to claim 4 cents per 1.6 kilometers (mile).

713. Transportation by Aircraft.

(a) Scheduled Airline. Claims for transportation by scheduled airline shall be allowed at the lowest fare available in conformity with the regular published tariffs for scheduled airlines in effect on the date of origination of the flight. Claims for reimbursement of higher fare or extra charges for transportation by scheduled airline may be allowed if accompanied by a full explanation stating the facts constituting the official necessity.

(b) Privately-Owned Aircraft. A claim of an employee for transportation by privately-owned aircraft shall be allowed where he has obtained prior approval of the use of this form of transportation from his department. If an employee is to act as pilot, he must satisfy the requirements of the Insurance Officer, Department of General Services, as to liability insurance coverage. The Insurance Officer shall file approved authorizations for such allowance with the State Controller.

(1) Reimbursement for use of the employee's privately-owned aircraft shall be made at the rate of 28 cents per statute mile, or 17.5 cents per kilometer.

(A) Distance shall be computed on the basis of shortest air route from origin to destination, using airways whenever possible. Distance shown on claim shall be clearly marked "Air Distance".

(B) When the trip is limited solely to state business and the "Air Distance" cannot accurately be computed from origin to destination, the department director may authorize reimbursement for the actual cost of renting a plane.

(2) Reimbursement for use of a rented aircraft will be for actual and necessary costs of such rental when substantiated by voucher.

(A) Reimbursement will be authorized only for the size and type aircraft necessary to complete the assignment.

(3) When substantiated by a voucher, reimbursement will be made for actual and necessary expenses for landing and parking fees in connection with the use of the aircraft. Reimbursement will not be allowed for storage or parking fees at the location where the privately-owned aircraft is normally stored.

(4) If an employee is to act as pilot and carry passengers he must, in addition to Federal Aviation Administration Regulations, have previously logged as a licensed private pilot in command of an aircraft at least 250 hours of actual flight. In addition, the employee pilot must have logged, as a pilot in command of an aircraft, at least 40 hours of actual flight within the preceding 12 months. Any employee pilot who has carried or intends to carry passengers may be required to present his log book substantiating that he meets these requirements. For the purpose of this rule, the term passenger shall be defined as any person other than the pilot traveling in the aircraft. An employee pilot who carries a passenger but fails to meet the above qualifications is not entitled to any reimbursement for that transportation expense.

(c) Payment of Fare. Payment for transportation by aircraft may be made by (1) cash, (2) credit card, or (3) ticket order. In cases where payment is made by cash, the travel expense claim must be accompanied by the traveler's flight coupon if one was issued, in accordance with Rule 710(a)(1). If no flight coupon was issued, as may be the case with chartered or private aircraft, a formal receipt must be submitted. If payment was made by credit card or by ticket order, this fact should be noted on the travel expense claim.

(d) Air Travel Insurance. Any state agency may insure its officers and employees against injury or death arising from aircraft accidents incurred while flying on state business in any except regularly scheduled passenger aircraft, subject to the following conditions:

(1) Such insurance shall be provided only to those employees who are directed to fly to fulfill their work requirements. Such insurance coverage shall not be provided where the use of a privately-owned aircraft is for point-to-point transportation and is a result of a voluntary response from the employee, even though such usage may be advantageous to the State.

(2) Application for such insurance shall be submitted to, and the insurance procured by, the Department of General Services.

(3) The maximum limit of such insurance shall be \$15,000 in the case of death or dismemberment for each officer and employee.

714. Transportation by Automobile.

(a) Where claimant is authorized to operate a privately owned automobile even though a state automobile is available, a rate of 16.5 cents per 1.6 kilometers (mile) will be allowed.

(b) Where a privately owned automobile is used because, by supervisory decision, it has been determined that a state automobile is not available to the employee, the employee will be allowed to claim 20.5 cents per 1.6 kilometers (mile) without certification or up to 30 cents per 1.6 kilometers (mile) with certification. Even though a state automobile may in fact be on hand, it may not be available to the employee because it is reserved for other purposes, because it is more advantageous economically to the State for the employee to use his own automobile, or because use of a state automobile is unreasonable considering all circumstances in a particular situation. In determining economic advantage of state versus private automobile, a supervisor will include the following in his consideration.

(1) Distance to be traveled and duration of trip, as these affect direct costs.

(2) Location of the employee's residence, regular workplace, destination, and location of available state automobiles; as these factors affect employee time and distance traveled.

The Board of Control may institute whatever controls deemed appropriate over payment of this allowance by any state agency whenever there is reason to believe that proper control is not being exercised by supervision within the agency.

(c) Where use of a privately owned automobile is authorized for travel to or from a common carrier terminal and the automobile is not parked at the terminal during the period of absence, a rate of 41 cents up to 60 cents per 1.6 kilometers (mile) may be claimed only while the employee is an occupant of the vehicle for the distance between the terminal and his residence or headquarters, whichever is less, except if the employee commences or terminates travel before or after his regularly scheduled work day or on a regularly scheduled day off, mileage may be computed from his residence. Claims in excess of 41 cents per 1.6 kilometers (mile) must have the certification required by Section 714(b).

(d) Ferry, bridge, or toll road charges shall be allowed.

(e) Charges shall be allowed for necessary parking while on state business for:

(1) Day Parking when on trips away from the headquarters office and residence.

(2) Overnight public parking when on trips away from the headquarters city and city of residence. Claim should not be made if expense-free overnight parking is available.

(3) Day parking adjacent to claimant's headquarters, provided that claimant had other reimbursable private car expenses for the same day.

(f) Expenses for gasoline or routine repairs shall not be allowed.

(g) The rates of reimbursement for mileage set out in this section include the costs of maintaining liability insurance at the minimum amount prescribed by law and collision insurance sufficient to cover the reasonable value of the vehicle, less a standard deductible. When a privately owned vehicle operated by an officer, agent or employee is damaged by collision or receives other accidental damage, reasonable reimbursement for repair shall be allowed under the following conditions:

(1) The damage occurred while the vehicle was being used on official state business with the permission or authorization of his employing agency;

(2) The vehicle was damaged through no fault of the officer, agent, or employee;

(3) The amount claimed is an actual loss to the officer, agent, or employee, which is not recoverable either directly from or through the insurance coverage of any of the parties involved in the accident;

(4) The amount of the loss claimed does not result from a decision of an officer, agent or employee not to maintain collision coverage;

(5) The claim is processed in accordance with the procedures prescribed by the Department of General Services.

(h) Allowance of transportation expenses by privately owned automobile incurred in travel outside the State is limited by these rules and the requirement of the authorization specified in Section 706(d).

(i) Specialized Vehicles. Employees who must operate a motor vehicle on official state business and who, because of a physical disability, may operate only specially equipped or modified vehicles may claim up to 31 cents per 1.6 kilometers (mile) with certification in accordance with Rule 714(b). Supervisors who approve claims pursuant to this subsection have the responsibility of determining the need for the use of such vehicles.

715. Railroad Transportation.

(a) No more than actual fare on any transportation service, in accordance with the latest tariffs at the time the trip was made, shall be allowed. Special rates and round-trip rates shall be used whenever possible.

(b) Reimbursement for roomette Pullman accommodations will be allowed. Where it is necessary to use Pullman accommodations more expensive than a roomette, a full explanation stating the facts constituting the official necessity shall accompany the expense account together with a receipted voucher.

(c) Unused portions of railroad and sleeping car tickets are subject to refunds and all steps necessary to secure refunds on such tickets shall be taken.

(d) Any unusual delay or a deviation from the shortest, usually travelled route shall be explained unless connected with return trip out-of-state deportation travel authorized by the Department of Health or the Department of the Youth Authority.

(e) In connection with return trip out-of-state deportation travel authorized by the Department of Health or the Department of the Youth Authority, reimbursement for subsistence and transportation expenses shall be made on the basis of shortest usually travelled routes, conventional train time, first class fare, and lower standard Pullman rates as certified to by a railroad passenger agent.

(f) Meals incurred while on overnight train travel will be reimbursed in accordance with Section 706(c).

(g) Tickets for rail transportation or Pullman accommodations may be purchased (1) by the individual, (2) by credit card, or (3) ticket order. If purchased by credit card, or by ticket order this fact should be noted on the individual's expense claim.

718 Travel Allowances While on Sick Leave, Vacation or Compensating Time Off (CTO).

(a) When a state officer or employee is granted sick leave while away from his headquarters for purposes of state business, such officer or employee may claim reimbursement for travel expenses in accordance with the allowances prescribed by these rules during such sick leave, provided the allowances for travel expenses shall not be authorized for a period exceeding three days. The time limitation prescribed by this section may be exceeded in unusual cases approved by the Board of Control.

(b) When a state officer or employee is authorized time off on vacation or CTO while away from his headquarters on state business, reimbursement for subsistence allowance during such vacation or CTO may not be claimed. The provisions of this section may be waived by an agency for employees claiming other than short-term allowances who are

(1) authorized time off on CTO, or

(2) employees in seasonal agricultural work authorized time off on vacation.

HEALTH & SAFETY CODE SECTIONS 11100, 11100.1, 11104,
11105, 11379.6 AND 11383

Section 11100.

(a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the Department of Justice of all of those transactions:

- (1) Phenyl-2-propanone
- (2) Methylamine
- (3) Ethylamine
- (4) D-lysergic acid
- (5) Ergotamine Tartrate
- (6) Diethyl malonate
- (7) Malonic acid
- (8) Ethyl malonate
- (9) Barbituric acid
- (10) Piperidine
- (11) N-acetylanthranilic acid
- (12) Pyrrolidine
- (13) Phenylacetic acid
- (14) Anthranilic acid
- (15) Morpholine
- (16) Ephedrine
- (17) Pseudoephedrine; norpseudoephedrine; and phenylpropanolamine

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) Any manufacturer, wholesaler, retailer, or other person shall, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to a person in this state, require proper identification from the purchaser.

(2) For the purposes of this subdivision, "proper identification" means a motor vehicle operator's license or other official state-issued identification of the purchaser which contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from the business for which any substance specified in subdivision (a) is being furnished, which includes the business license number and address of the business, a full description of how the substance is to be used, and the

signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature as a witness to the signature and identification of the purchaser.

(3) A violation of this subdivision is a misdemeanor.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subdivision (a) to a person in this state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. However, the Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that either of the following exist:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance.

(2) The recipient has established a record of utilization of the substance for lawful purposes.

(e) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(4) Sales consistent with federal law of any proprietary product containing substances listed in paragraph 16 or 17 of subdivision (a).

(f)(1) Any person specified in subdivision (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five thousand dollars (\$5,000) or by both the fine and imprisonment.

(2) Any person specified in subdivision (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both the fine and imprisonment.

Section 11100.1.

(a) Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of this state any substance specified in subdivision (a) of Section 11100 shall submit a report of such transaction to the Department of Justice in accordance with regulations adopted by that department. However, this section does not apply to any person whose prescribing or dispensing activities are subject to the reporting requirements set forth in Section 11164.

(b)(1) Any person specified in subdivision (a) who does not submit a report as required by that subdivision shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five thousand dollars (\$5,000) or by both such fine and imprisonment.

(2) Any person specified in subdivision (a) who has been previously convicted of a violation of subdivision (a) who subsequently does not submit a report as required by subdivision (a) shall be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both such fine and imprisonment.

Section 11104.

Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the substance listed in subdivision (a) of Section 11100 with knowledge or the intent that the recipient will use the substance to unlawfully manufacture a controlled substance is guilty of a felony.

Section 11105.

(a) It is unlawful for any person to knowingly make a false statement in connection with any report or record required under this article.

(b)(1) Any person who violates this section shall be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) Any person who has been previously convicted of violating this section and who subsequently violates this section shall be punished by imprisonment in the state prison for two, three, or four years, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both such fine and imprisonment.

Section 11379.6.

(a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment in the state prison for three, five, or seven years.

(b) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment in the state prison for three, four, or five years.

Section 11383.

(a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison.

(b) Any person who possesses at the same time any of the following combinations, or a combination product thereof, with intent to manufacture phencyclidine (PCP) or any of its analogs specified in paragraph (22) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years:

- (1) Piperidine and cyclohexanone.
- (2) Pyrrolidine and cyclohexanone.
- (3) Morpholine and cyclohexanone

(c) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, piperidine, cyclohexanone, pyrrolidine, or morpholine shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, or morpholine shall be deemed to be possession of such substance.

(d) The provisions of subdivisions (a), (b), and (c) shall not apply to drug manufactures licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess such substances or combinations of substances.

HEALTH AND SAFETY CODE SECTION 11489

ASSET FORFEITURE PROGRAM

Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) The remaining funds shall be distributed as follows:

(A) Sixty-five percent to the state, local, or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency.

(B) Ten percent to the prosecutorial agency which processes the forfeiture action.

(C) Twenty percent to the State Department of Mental Health for deposit in the Mental Health Primary Prevention Fund for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981. There is hereby created in the state Treasury the Mental Health Primary Prevention Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Mental Health Primary Prevention Fund are hereby continuously appropriated to the State Department of Mental Health to expend for primary prevention programs in accordance with Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. Expenditures may include administrative costs incurred by the department. These administrative costs are not to exceed 5 percent of the fund. Notwithstanding the provisions of Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the Mental Health Primary Prevention Fund.

(D) Five percent to eligible nonprofit organizations established for the purposes of aiding those seizures and forfeitures. Moneys shall be used to fund the operations of those organizations where it has been determined that information provided by the organization resulted in the seizure of these funds. In all other instances these moneys shall be deposited into the Narcotics Assistance and Relinquishment by Criminal Offenders Fund. The eligibility criteria and amount of funds to be allocated under this subparagraph shall be determined by each county pursuant to county ordinance.

(c) Notwithstanding Item 0820-101-469 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to the Department of Justice pursuant to subparagraph (A) shall be deposited into the Department of Justice Special Deposit Fund-State Asset Forfeiture Account and used for the law enforcement efforts of the state or for state or local law enforcement efforts pursuant to Section 11493.

All funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for state and local law enforcement efforts pursuant to Section 11493.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(d) All the funds distributed to the state or local governmental entity pursuant to subparagraphs (A) and (B) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies.

Each governmental agency seeking a claim under this subdivision shall petition the court and the court shall order the forfeiture proceeds distributed to the state, local, or state and local governmental entity.

For the purposes of this section, "local governmental entity" means any city, county, or city and county in this state.

All property seized and all proceeds from the sale of property seized pursuant to this chapter prior to October 2, 1985, shall be distributed in accordance with the provision of this section

PENAL CODE SECTION 13851

CAREER CRIMINAL APPREHENSION PROGRAM; FUNDS;

USE; GUIDELINES; PROCEDURES; REPORTS

(a) There is hereby established in the Office of Criminal Justice Planning a program of financial, training, and technical assistance for local law enforcement called the California Career Criminal Apprehension Program. All funds made available to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office.

(b) The executive director is authorized to allocate and award funds to those local units of government or combinations thereof, in which a special program is established in law enforcement agencies that meets the criteria set forth in Sections 13852 and 13853.

(c) Such allocation and award of funds shall be made upon application executed by the chief law enforcement officer of the applicant unit of government and approved by the legislative body. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Apprehension Program, be made available to support the apprehension of multiple or repeat felony criminal offenders.

(d) The Executive Director of the Office of Criminal Justice Planning shall prepare and issue administrative guidelines and procedures for the California Career Criminal Apprehension Program consistent with this chapter.

(e) These guidelines shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders or standards of general application.

(f) Every three years, commencing on and after October 1, 1990, the executive director shall prepare a report to the Legislature describing in detail the operation of the program and the results obtained from law enforcement career criminal apprehension programs receiving funds under this chapter.

PENAL CODE SECTION 13881

CALIFORNIA MAJOR NARCOTIC VENDORS PROSECUTION PROGRAM

(a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Major Narcotic Vendors Prosecution Law. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which the California Major Narcotic Vendors Prosecution Law is implemented in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Major Narcotic Vendors Prosecution Law, be made available to support the prosecution of felony drug cases. Funds available under this program shall not be subject to review, as specified in Section 14780 of the Government Code.

(d) On or before January 1, 1985, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Major Narcotic Vendors Prosecution Program consistent with this chapter, which shall be submitted to the chairpersons of the Criminal Law and Public Safety Committee of the Assembly and the Judiciary Committee of the Senate. These guidelines shall permit the selections of a county for the allocation and award of funds only on a finding by the Office of Criminal Justice Planning that the county is experiencing a proportionately significant increase in major narcotic cases. Further, the guidelines shall provide that any funds received by a county under this chapter shall be used only for the prosecution of cases involving major narcotic dealers.

(e) Annually, commencing January 1, 1986, the executive director shall, in cooperation with public defender representatives, prepare a report to the Legislature describing the operation and results of the statewide program and assessing any and all fiscal and workload burdens imposed by the statewide program upon local public defender offices and assigned counsel, with recommendations where appropriate.

TITLE 21 UNITED STATES CODE SECTION 881

FEDERAL ASSET FORFEITURE PROGRAM

Property subject.

(a) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2), except that-

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter; and

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(8) All controlled substances which have been possessed in violation of this subchapter.

Seizure pursuant to Supplemental Rules for Certain Admiralty and Maritime Claims.

(b) Any property subject to civil or criminal forfeiture to the United States under this subchapter may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when-

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this subchapter;

(3) The Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The Attorney General has probable cause to believe that the property is subject to civil or criminal forfeiture under this subchapter.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

Custody of Attorney General.

(c) Property taken or detained under this section shall not be replevable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provision of this subchapter, the Attorney General may-

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

Other laws and proceedings applicable.

(d) The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs law; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

Disposition of forfeited property.

(e) Whenever property is civilly or criminally forfeited or under this subchapter the Attorney General may-

- (1) retain the property for official use or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 616 of Title 19;
- (2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;
- (3) require that the General Services Administration take custody of the property and dispose of it in accordance with law; or
- (4) forward it to the Drug Enforcement Administration for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General).

The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1), shall not be subject to review. The proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of Title 28 any amounts of such moneys and proceeds remaining after payment of such expenses.

Forfeiture of schedule I substances.

(f) All controlled substances in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provision of this subchapter shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

plants.

(g)(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(h) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(i) The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

(j) In addition to the venue provided for in section 1395 of Title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

TITLE 11, SUBCHAPTER 8.5, ARTICLES 850-860, CALIFORNIA ADMINISTRATIVE CODE

Proposed Amendments to Rules and Regulations to administer reimbursements to counties for the cost of prosecution, Law enforcement personnel costs, removal, storage and/or disposal of toxic waste of clandestine laboratory investigations.

850. Reimbursable Entities.

Reimbursement under Health and Safety Code Section 11642 shall apply to county and city agencies pursuant to the limitations set forth in the statute.

851. Threshold Limit.

All reimbursement to counties/cities for the cost of clandestine laboratory investigations subject to the threshold limit criterion established by Health and Safety Code Section 11642.

852. Audits.

All costs claimed pursuant to Health and Safety Code Section 11642 may be periodically reviewed by the State Controller to insure that on their face such claims meet the requirements of Health and Safety Code Section 11642. Costs eligible for reimbursement must be reasonable and necessary costs incurred by the county/city as a result of the investigation, prosecution, or removal, storage, or disposal of toxic waste, and do not include normal salaries, overhead, and other expenses, unless otherwise provided in Health and Safety Code Section 11642. At the conclusion of the investigation/prosecution the State Controller may conduct an audit of selected claims as he deems necessary.

853. Prosecution Costs.

A. Attorney Fees.

1. Normal salaries and benefits for county/city employees (attorneys) are reimbursable. Overtime and fringe benefits actually paid may be reimbursable if such overtime is directly attributable to the particular case. The necessity, duration, and extent of the overtime must be fully explained and authorized by the appropriate supervisor in writing, and must be documented in accordance with written personnel policies. Overtime documentation must be retained for audit examination.
2. All contract attorneys and their support personnel must have a written contract indicating the rate of compensation, including that for trial work, overtime, and expenses. The contract with non-county/non-city personnel shall specify the fee or rate of pay, and the treatment of overtime if applicable. Overtime will be defined by individual counties/cities.

3. In order to be considered for reimbursement, charges for the services of outside contractors, must be supportable through adequate timekeeping records. Time charged must be approved by the appropriate contract supervisor or county/city official. Records maintained for billing purposes by court appointed attorneys, investigators, consultants, experts, and others shall be made available to the State Controller's Office, upon request, for examination. Such records will be reviewed to determine the reliability of timekeeping records submitted to the county/city.

B. Witness Costs.

1. Where allowed by the court, subpoenaed witness fees and expenses may be reimbursed at rates or amounts determined pursuant to Penal Code Section 1329. The pertinent subpoena and the court order must be retained for audit examination.
2. Costs for expert witnesses appointed by the court pursuant to Evidence Code Section 730 may be reimbursed. The court orders appointing such expert witness and establishing compensation for same must be retained for audit examination.

C. Costs for material and supplies.

All costs of material and supplies may be reimbursable. "All Costs" means reasonable and necessary costs incurred.

D. Investigation Expenses.

1. The costs of licensed investigators are reimbursable at a rate not to exceed the prevailing rate paid investigators performing similar services. Reimbursement to a county for investigator services shall not exceed the hourly rate equal to that county's/city's average hourly cost for county-employed investigators.
2. The cost of an investigation conducted by an attorney is reimbursable if the investigating attorney is not an attorney of record for the case. Such reimbursement shall not exceed the prevailing rate paid investigators performing similar services. For the purpose of this section, "investigation" does not include legal research or legal representation.

E. Travel Expenses.

1. Travel expenses for mileage, room and board, and per diem, may be reimbursable in accordance with the rules of the local jurisdiction. In absence of such rules, travel and subsistence expenses may not exceed the State Board of Control rates as outlined in Title 2, California Administrative Code, Sections 700 through 715 and Section 718.
2. To be reimbursed for out-of-state and/or foreign travel costs, the county/city shall, to the extent possible, obtain from the trial judge a determination whether the contemplated trip is necessary and reasonable. The county/city shall obtain the determination prior to the travel.
3. Travel beginning before Monday, and/or ending after Friday, must be justified in writing.
4. Documentation supporting travel and per diem expenses shall be in accordance with county/city policy provided such policy substantially conforms to Title 2, California Administrative Code, Sections 700 through 715 and Section 718. If county/city documentation requirements do not substantially conform to the California Administrative Code, then the county/city shall, to the extent possible, retain documentation which substantially conforms to Title 2, California Administrative Code, Sections 700 through 715 and Section 718.

854. Law Enforcement Personnel Costs.

A. Investigation Costs.

Normal salaries and benefits for employees are reimbursable. Overtime and fringe benefits actually paid may be reimbursable if such overtime is directly attributable to the particular case. The necessity, duration, and extent of the overtime must be fully explained and authorized by the appropriate supervisor in writing, and must be documented in accordance with written personnel policies. Overtime documentation must be retained for audit examination.

B. Reimbursable miscellaneous costs.

1. The cost of equipment rental may be reimbursed. To be reimbursable, rental costs must be incurred solely because of the investigation. Rental contract(s) must be retained for examination. Examples of equipment rental are as follows: specialized surveillance equipment, the rental of a vehicle to haul large apparatus commonly associated with clandestine laboratories, portable generators for electrical power at rural locations, storage facilities for temporary storage of apparatus pending adjudication, etc.

2. Costs for the purchase of personnel protective equipment used to eliminate toxic chemical exposure are reimbursable. Examples of personnel protective equipment are as follows: chemical retardant suits, gloves, shoe covers and goggles. All invoices of such purchases must be retained for examination.

C. Travel expenses.

1. Travel expenses for mileage, room and board, and per diem may be reimbursable in accordance with the rules of the local jurisdiction. In absence of such rules, travel and subsistence expenses may not exceed the State Board of Control rates as outlined in Title 2, California Administrative Code, Sections 700 through 715 and Section 718.
2. To be reimbursed for out-of-state and/or foreign travel costs, the county/city shall, to the extent possible, obtain from the supervisor a determination whether the contemplated trip is necessary and reasonable. The county/city shall obtain the determination prior to the travel.
3. Travel beginning before Monday, and/or ending after Friday, must be justified in writing.
4. Documentation supporting travel and per diem expenses shall be in accordance with county/city policy provided such policy substantially conforms to Title 2, California Administrative Code, Sections 700 through 715 and Section 718. If county/city documentation requirements do not substantially conform to the California Administrative Code, then the county/city shall, to the extent possible, retain documentation which substantially conforms to Title 2, California Administrative Code, Sections 700 through 715 and Section 718.

855. Costs for Removal, Storage, or Disposal of toxic waste from a clandestine laboratory site.

A. The following definition is applicable:

1. A clandestine laboratory site is any location where a controlled substance is/was/or attempted to be manufactured, compounded, converted, produced, derived, processed, or prepared, either directly or indirectly by chemical extraction or independently by means of chemical synthesis.

B. The cost of removal, storage, or disposal of toxic waste may be reimbursed if the following conditions are met:

1. The clandestine laboratory is a prosecutable case and charges have or will be filed with the District Attorney's office of the county's jurisdiction, or a grand jury indictment has or will be sought in the U.S. Federal Court of the presiding jurisdiction.

2. The chemical disposal company hired to remove, store, or dispose of the toxic waste is licensed to conduct such activities with the California Department of Health Services, and complies with all state and federal regulations relating to such activities.
3. In the event the chemicals are destroyed pursuant to 11479 of the Health and Safety Code, or by court order, the chemical disposal company shall, to the extent requested by the law enforcement agency, provide documentation and courtroom testimony as to the destruction of the chemicals.
4. The chemical disposal company shall have the capabilities of providing emergency guidance in the event of fire explosion, or other catastrophe relating to illicit laboratories. The chemical disposal company shall be experienced in handling chemical spills, moderate levels of sampling, and identification of removed items and packaging, and recontainerization services for on-site waste materials and chemicals. The chemical disposal company shall perform all aspects of disposal in accordance with any/all federal, state, county, or city laws, statutes, and ordinances pertinent to such transport and disposal of toxic waste.
5. The chemical disposal company, at own expense, shall provide insurance covering environmental loss as detailed and outlined in Sections 29 and 30 of the Federal Motor Carrier Act of 1980, public liability and property damage.

C. Cost for Removal.

All costs incurred for specialized packaging equipment, standard labor rates for handling, and transportation shall be reimbursable.

D. Cost for Storage.

All costs incurred in rental or storage fees for maintaining hazardous or toxic substances pending destruction or adjudication are reimbursable.

E. Cost for Disposal.

All costs incurred in the transportation and proper disposal of hazardous or toxic waste by a state licensed hazardous waste hauler shall be reimbursable.

F. All costs claimed by a county/city in the process of removal, storage, or disposal of hazardous or toxic waste from clandestine laboratory investigations shall conform to that agency's normal procurement procedures for contracting.

856. Other Costs.

1. Other costs which are not reimbursable include, but are not limited to:
 - (a) Administrative and countywide indirect overhead costs (except in those cases where it can be identified that additional support services were required due to the case).
 - (b) Accounting services.
 - (c) Amortization.
 - (d) Auditing service, unless such costs directly relate to the case. Prior to incurring such costs, the County/City Auditor-Controller should obtain approval from the State Controller's Office.
 - (e) Bond premiums.
 - (f) Books (e.g., standard legal reference sets, law books, or periodicals).
 - (g) Budgeting services.
 - (h) Business services.
 - (i) Clerk of the Court.
 - (j) Depreciation.
 - (k) Employee relocation.
 - (l) Insurance (e.g., liability, fire).
 - (m) Landscaping.
 - (n) Memberships.
 - (o) Organization development.
 - (p) Research of a general nature. Research directly related to the prosecution is reimbursable.
 - (q) Search and apprehension of escaped defendants.
 - (r) Subscriptions (e.g., magazines, newspapers).
 - (s) Support of central services division.
 - (t) Use allowance (e.g., use of county owned facilities).
 - (u) Unpaid overtime to employees.
 - (v) Unpaid employer's share of staff benefits.

857. Documentation.

Any cost claimed for reimbursement must be supported by adequate documentation and be readily traceable through county records and books of accounts.

858. Forms.

Costs claimed for state reimbursement shall be filed on forms prescribed or approved by the State Controller's Office.

859. Other Reimbursement.

Any cost reimbursable from another source shall not be reimbursed under Health and Safety Code Section 11642.

860. Filing.

Counties/cities shall submit claims upon the completion of each case.