

**Memorandum on the City of Los Angeles' Authorization to Recover
Service Costs for Protesters Obstructing Traffic**

Issue:

Can the City of Los Angeles recover its costs for their services because protesters obstructed traffic on 5/6/2010?

Answer:

The City of Los Angeles will not be able to recover its personnel costs in disbanding and arresting the protesters. This is there is no express state or municipal legislation which would authorize it to do so.

Rule:

Absent a statute, which expressly authorizes recovery of public expenditures, "the cost of public services for protection from fire or safety hazards is to be born by the public as a whole, not assed against the tortfeasor whose negligence creates the need for the services." *County of San Luis Obispo v. The Abalone Alliance* 178 Cal. App. 3d 848, 857 (1986). In short, a government agency cannot recover the cost of law enforcement absent authorizing legislation. *Id.*

Discussion

Los Angeles Cannot Recover Costs From the Protesters Under California Statutes

From my research, there are five Californian statutes that authorize a public agency to recover costs.

1. Gov. Code, § 53150
2. Gov. Code, § 53151
3. Gov. Code, § 53152
4. Gov. Code, § 53153
5. Gov. Code, § 53153.5

The statutes are listed below in section **California Statutes Authorizing the Recovery of Costs from an Individual by a Public Agency**.

None of these codes are applicable in our case because four of the five statutes require the objective elements of operating a type of vehicle under the influence of drugs or alcohol. The remaining statute is § 53153.5, which holds that someone can be liable for making a false emergency report. In our case, these elements are not present because the protesters were operating no such vehicle and were not under the influence of drugs or alcohol. Nor, did they make a false emergency report. Thus, the City of Los Angeles cannot recover the costs for disbanding and arresting the protesters.

Los Angeles Cannot Recover Costs From the Protesters Under Los Angeles County Municipal Codes

The City of Los Angeles cannot use any of the following codes (listed below) to recover the costs for disbanding and arresting the protesters. This is because the County of Los Angeles Municipal Codes, which specifically authorize cost recovery, cannot be applied to protesters.

- § 12.56 HAZARDOUS MATERIALS--EMERGENCY RESPONSE COST RECOVERY applies to hazardous waste.
- § 12.56.020 Emergency response cost recovery also applies to hazardous waste.
- § 13.12 GRAFFITI PREVENTION, PROHIBITION AND REMOVAL applies to the removal of graffiti.
- § 13.90 COUNTERFEIT GOODS NUISANCE ABATEMENT LAW applies to counterfeit goods
- § 20.08 REGISTRATION, AUTHORIZATION AND SERVICE applies to hazardous waste.

Since, none of these codes actually address the obstruction of traffic, the city will not be able to recover its costs according to the holding in *Abalone Alliance* 178 Cal. App. 3d at 857.

Research Path

Done in LexisNexis

Search Terms	Source	Results Retrieved
Liabile w/ 20 public agency and expens!	Deering's California Codes Annotated	15
Liabile w/ 20 public agency and expense	Deering's California Codes Annotated	44
Liabile for the expense w/ 10 public agency	Deering's California Codes Annotated	5
Abatement Costs	County of Los Angeles Municipal Code	1
Recovery of Costs	County of Los Angeles Municipal Code	0
Abatement and cost and recover!	County of Los Angeles Municipal Code	5
Nuisance and cost and recover	County of Los Angeles Municipal Code	5
Nuisance and recover	County of Los Angeles Municipal Code	8
Cost recovery	County of Los Angeles Municipal Code	6
Recover! w/ 10 abatement	County of Los Angeles Municipal Code	3
Recover w/ 10 cost!	County of Los Angeles Municipal Code	34
Reimburs!	County of Los Angeles Municipal Code	49
Restitution	County of Los Angeles Municipal Code	2

**California Statutes Authorizing the Recovery of Costs from an
Individual by a Public Agency:**

§ 53150,

Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

§ 53151,

Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of any boat or vessel caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

§ 53152,

Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a civil aircraft caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes an incident resulting in an appropriate emergency response, is liable for the

expense of an emergency response by a public agency to the incident.

§ 53153,

"Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a civil aircraft caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident."

§ 53153.5,

- (a) Any person 18 years of age or older who is convicted of making a false police report, in violation of [Section 148.3 of the Penal Code](#), and that false police report proximately causes an appropriate emergency response by a public agency, is liable for the expense of the emergency response made by the responding public agency to the incident.

- a. [Section 148.3 of the Penal Code](#),

- i. Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, and who knows that the report is false, and who knows or should know that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison, or by a fine of not more than ten

thousand dollars (\$10,000), or by both that imprisonment and fine.

- (a) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that the report is false, is guilty of a misdemeanor and upon conviction thereof shall be punishable by imprisonment in the county jail for a period not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

§ 53154. Collection of expenses; Effect of insurance

The expense of an emergency response shall be a charge against the person liable for expenses under this article. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied, except that liability for the expenses provided for in this article shall not be insurable and no insurance policy shall provide or pay for the expenses.

§ 53155. Limit of liability

In no event shall a person's liability under this article for the expense of an emergency response exceed twelve thousand dollars (\$12,000) for a particular incident.

Los Angeles Municipal Code Authorizing the Recovery of Costs from an Individual by a Public Agency:

Los Angeles Municipal Code authorizes the recovery of costs for the following statutes:

§ Chapter 12.56 HAZARDOUS MATERIALS--EMERGENCY RESPONSE COST RECOVERY

. . .

- A. If the enforcement agency determines that a violation exists that poses an imminent threat to life or health, it may clean up, abate or otherwise remedy the violations.

. . .

§12.56.020 Emergency response cost recovery.

- A. Those costs of an emergency response incurred by the forester and fire warden, including costs of any deputy health officer, public officer and related personnel, necessary to protect the public from a threat to health and safety by actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material, are a charge against any person whose intentional or negligent action causes the incident, if one or more of the following occurs:

§ Chapter 13.12 GRAFFITI PREVENTION, PROHIBITION AND REMOVAL

. . .

- B. Findings regarding costs incurred for removal, repair, and/or replacement. The board of supervisors finds that the average cost to the county of removing graffiti and other proscribed material, and of repairing and replacing property of the types frequently defaced with graffiti or other inscribed material that cannot be removed cost effectively, is \$522.00 per incident of graffiti vandalism.

§ Chapter 13.90 COUNTERFEIT GOODS NUISANCE ABATEMENT LAW

. . .

- C. Civil penalty. The district attorney or the county counsel shall be authorized to bring and maintain a civil proceeding in the name of the county of Los Angeles, in the superior court, to recover a civil penalty for a public nuisance defined in Section 13.90.040 of this chapter, in the manner provided in this chapter.

§ Chapter 20.08 REGISTRATION, AUTHORIZATION AND SERVICE authorized when--Cost recovery.

. . .

- A. If the enforcement agency determines that a violation exists that

poses an imminent threat to life or health, it may clean up, abate or otherwise remedy the violations.