

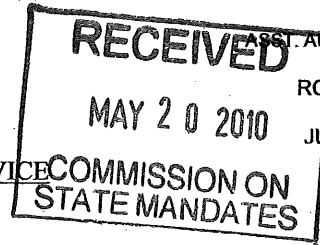


COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER

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DECLARATION OF SERVICE COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA, County of Los Angeles:

Lorraine Hadden states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 18th day of May, 2010, I served the attached:

Documents: Los Angeles County's Review of State Agency Comments on its Draft Parameters and Guidelines (Ps&Gs) for the Interagency Child Abuse and Neglect (ICAN) Investigation Reports Test Claim and Revised Ps&Gs and Proposed Time Standards, including a cover letter of Wendy L. Watanabe, narrative, revised Ps&Gs and proposed time standards, and nine Exhibits, now pending before the Commission on State Mandates (00-TC-22).

upon all Interested Parties listed on the attachment hereto and by

- [X] by transmitting via PDF e-mail on the above service date, the document(s) listed above to the Commission on State Mandates and mailing on the above service date the above original-signed documents to Commission's office.
[] by placing [] true copies [] original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
[X] by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
[] by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

PLEASE SEE ATTACHED MAILING LIST

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of May, 2010, at Los Angeles, California.

[Signature]
Lorraine Hadden

Commission on State Mandates

Original List Date: 7/6/2001
Last Updated: 3/22/2010
List Print Date: 05/13/2010
Claim Number: 00-TC-22
Issue:

Mailing Information: Draft Staff Analysis

Mailing List

Interagency Child Abuse and Neglect (ICAN) Investigation Reports

Related Matter(s)

01-TC-21 Child Abuse and Neglect Reporting

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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May 17, 2010

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Ms. Paula Higashi
Executive Director
Commission on State Mandates
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Dear Ms. Higashi:

**LOS ANGELES COUNTY'S REVIEW OF STATE AGENCY COMMENTS
REVISED PARAMETERS AND GUIDELINES AND PROPOSED TIME STANDARDS
INTERAGENCY CHILD ABUSE AND NEGLECT (ICAN) INVESTIGATION REPORTS**

The County of Los Angeles respectfully submits its review of state agency comments on the ICAN parameters and guidelines (Ps&Gs) which was filed with the Commission on January 21, 2010.

A revised set of ICAN Ps&Gs, including a new law enforcement 'reasonable reimbursement methodology', is proposed.

If you have any questions, please contact Leonard Kaye at (213) 974-9791 or via e-mail at lkaye@auditor.lacounty.gov.

Very truly yours,

Wendy L. Watanabe
Auditor-Controller

WLW:MMO:JN:CY:lk

H:\SB90\5 15 2010 ICAN Response\cover letter

Enclosure

Executive Summary
Los Angeles County's Review of State Agency Comments
Revised Parameters and Guidelines and Proposed Time Standards
Interagency Child Abuse and Neglect (ICAN) Investigation Reports [00-TC-22]

In California, local agencies respond to approximately 700,000 child abuse referrals a year. In about 24,000 cases, a child abuse report is filed with the State Department of Justice. Under ICAN, the Legislature has devised a State-mandated system to sift through the many referrals to find and protect the abused child.

On December 6, 2007, the Commission on State Mandates approved the County's 'test claim' and found that ICAN mandated local agencies to investigate and report child abuse and that those duties were reimbursable. On January 21, 2010, the County filed 'parameters and guidelines' (Ps&Gs) to specify terms and conditions of reimbursement. These included standard times for computing the costs of repetitive local law enforcement and county welfare agency tasks, permitted under 'reasonable reimbursement methodology' (RRM) provisions.

State agency comments support the concept of using RRM provisions to simplify the process of claiming ICAN costs. Regarding social service costs, there was no objection to the County's proposed RRM. Regarding the law enforcement RRM, the State Department of Finance and the State Department of Social Services objected that the County's RRM included activities that were not necessary in conducting a 'limited investigation'.

The County re-examined its law enforcement RRM and now proposes a streamlined three-tiered classification of required investigations. Those investigations that quickly result in a finding of no child abuse, based on preliminary information, are classified as level 1. These take 102 minutes to complete. Those investigations that result in a finding of no child abuse, but only after a patrol officer investigation, are classified as level 2. These take 268 minutes to complete. Those investigations that result in a finding of reportable child abuse and require an in-depth 'active investigation', are classified as level 3. These take 838 minutes to complete.

The State Controller's Office agreed with the County's proposal to reimburse the costs of reasonably necessary tests and procedures in conducting a level 3 investigation on a case by case basis using the actual cost method.

Los Angeles County's Review of State Agency Comments
Revised Parameters and Guidelines and Proposed Time Standards
Interagency Child Abuse and Neglect (ICAN) Investigation Reports [00-TC-22]

This review addresses State agency comments on Los Angeles County's (County) draft ICAN parameters and guidelines (Ps&Gs) filed with the Commission on State Mandates (Commission) on January 21, 2010.

In light of the concerns and findings of the State commentators (discussed below), the County has revised its Ps&Gs, including its law enforcement 'reasonable reimbursement methodology' (RRM). This RRM permits claiming the costs of repetitive law enforcement tasks using statewide standard times.

The County's original social service RRM received no negative comments and so remains unchanged in the (attached) Ps&Gs revision.

Detailed commentary was received from the State Department of Finance (Finance), State Controller's Office (SCO), and State Department of Social Services (SDSS).

A major area of concern was the scope of law enforcement investigation activities in the County's RRM. Finance and SDSS contend that only a 'limited investigation' is required to prepare and submit the Department of Justice (DOJ) reporting form (SS8583), not the 'active investigation' incorporated in the County's RRM.

'Limited Investigations'

Ms. Nona Martinez, Finance's spokesperson, contends that the law enforcement investigation activities that the County lists under level 3 and level 4 are not reimbursable. She maintains that only a 'limited investigation' is required under Commission's ICAN Statement of Decision. She indicates that:

“ Finance believes, as does the (State) Department of Social Services (DSS), that the proposed RRM inappropriately includes the totality of its law enforcement response to reports of child abuse, and all activities leading up to a full criminal prosecution. As a result, Finance believes that the activities in levels 3, 4 and 5 of the RRM extend beyond the limited investigation approved in the Statement of

Decision (SOD) for the purpose of preparing and submitting Form SS8583 to the Department of Justice.” (Emphasis added.)

Several corrections are in order.

First, the Commission’s Statement of Decision (SOD), is erroneously cited by Finance. Specifically, on pages 40-41, the SOD indicates that an ‘active’, not a ‘limited’, investigation is required. The SOD also states that an active investigation is “... is necessary in order to complete the state “Child Abuse Investigation Report” Form SS 8583”.

Further, the SOD indicates that the active investigation requirement is “newly mandated” and therefore reimbursable.

In addition, the SOD cautions that an active investigation “... must be sufficient to determine whether a report of suspected child abuse or neglect is unfounded, substantiated, or inconclusive”, as defined by Penal Code section 11165.12”.

Therefore, Finance’s assertion that only a limited investigation is required is in error.

Second, level 5 is not part of the RRM. Only levels 1 through 4 are included in the RRM. Level 5 is for extraordinary cases which involve multiple victims and/or suspects. The labor involved in these rare cases is not repetitive and therefore reimbursement for these extraordinary costs was not proposed by the County using a RRM. Rather, reimbursement for these cases is provided for under the actual cost method.

Therefore, Finance is in error in treating Level 5 as part of the RRM.

Regarding the initial child abuse investigation level 1 (110 minutes) and level 2 (268 minutes), Ms Martinez indicates that Finance along with SDSS believes that “... some of the activities in levels 1 and 2 are sufficient to comply with the mandated reporting requirement”.

However, Finance does not indicate which level 1 and 2 activities are sufficient to comply with the mandated reporting requirement. So, no further discussion of this topic is possible.

While Finance and SDSS staff accept level 1 and level 2 investigation activities as reasonably necessary in preparing and submitting Form SS8583 to DOJ, they accept none of the investigation activities in level 3 and level 4 as reasonably necessary.¹

Here, the County respectfully disagrees.

'Active Investigation'

The County maintains that an 'active investigation' is required before preparing and submitting Form SS8583 to DOJ. In fact, DOJ's instructions on the back of Form SS8583, under "DOJ Reporting", explicitly states that:

"A Form SS8583 must be submitted after an active investigation has been conducted and the incident has been determined not to be unfounded. DOJ defines an "active investigation" as: the activities of an agency in response to a report of known or suspected child abuse. For purposes of reporting information to the Child Abuse Central Index, the activities shall include, at a minimum: assessing the nature and seriousness of the suspected abuse; conducting interviews of the victim(s) and any known suspect(s) and witness(es); gathering and preserving evidence; determining whether the incident is substantiated, inconclusive or unfounded; and preparing a report that will be retained in the files of the investigative agency." (Emphasis added.)

Accordingly, the County has included activities in levels 3 and 4 because such activities are reasonably necessary in completely and accurately preparing and submitting a DOJ SS8583 report. The peril of omitting steps necessary for proper reporting is pointed out by Sergeant Daniel Scott, in his declaration (in Exhibit 3). On page 2 he states that:

¹ But even this limited acceptance is now doubted by SDSS as they subsequently filed a brief with the Commission questioning whether any investigatory steps are reimbursable. In this regard, Mark Ginsberg, with the SDSS Legal Division, argues, on page 12, that "... while a mandate to investigate may arguably exist, the absence of legislative direction on what investigatory steps are required, and the existence of broad discretion enjoyed by investigating agencies on what investigative steps to take, must lead to the conclusion that CANRA does not mandate any specific investigative activities". However, Mr. Ginsberg fails to note that the Commission's decision was based on explicit regulatory language and DOJ's forms which do specify investigatory requirements. Consequently, the Commission found that investigatory activities were reimbursable.

“... the omission of one or more ICAN activities described in Exhibit 1 could result in a finding of insufficient evidence of abuse and that further investigation could provide sufficient evidence, thereby avoid listing an innocent person as a ‘suspect’ in the CACI.”

Now, it is true that an initial allegation of child abuse may only necessitate Level 1 activities where initial review of the SCAR finds no credible evidence that child abuse has occurred. In this instance, 110 minutes was found to be sufficient to close the case.

However, Level 1 may not be sufficient where some credible evidence is found. So the case progresses to Level 2 where a patrol investigation is required. If, after interviewing the child, parents, siblings, witnesses, and suspects, the patrol officer concludes that no child abuse occurred, the case is closed. In this instance, 268 minutes, which includes the time spent in level 1, was found to be sufficient to close the case.

If the case is not closed in Level 2, the case progresses to Level 3 if the child has non-severe medical and mental injuries. The purpose of Level 3 is to continue the investigation to ensure that all the DOJ’ reporting requirements are completely and accurately completed. In this regard, DOJ’s 2005 “Guide to Reporting Child Abuse”, attached to County’s January 14, 2008 filing, states on page 4 that “... an active investigation is critical... in order to comply with the DOJ Regulations, you must complete an active investigation”.

In non-severe child abuse cases, 934 minutes, which includes the time spent on levels 1 and 2, was found to be sufficient to close the case.

In instances of severe child abuse, the case progresses from Level 2 to Level 4. Here, the standard time was found to be 2,162 minutes, which includes the time spent on levels 1 and 2.

Accordingly, the County maintains that, in certain instances, the initial investigation activities found in levels 1 and 2 are sufficient to comply with DOJ’s requirements. In other instances, that require further investigation to completely and accurately prepare and submit a DOJ SS8583 report, the activities found in levels 3 and 4 are necessary.

Los Angeles County Sheriff, Leroy D. Baca, and others², provide an overview of the incidence of child abuse. In this regard, Sheriff Baca notes, on page 2, that:

“In 2001, there were approximately three million reports of child abuse or neglect nationwide. In 2001, California reported that various agencies and private individuals referred 671,422 children for child abuse or neglect investigations in the state.”

Of the total number of children referred for investigation in 2007, Madelyn Childs, DOJ’s Program Manager, indicates that only 23,982 of these allegations have resulted in a DOJ SS8583 report³. Assuming that the total annual referrals are relatively constant, 1 out of 36 cases (23,982/671,422) necessitated an “active” level 3 or 4 investigation before a DOJ SS8583 report was filed. So the majority of referrals (35/36) may have required a less extensive and expensive level 1 or 2 investigation than the few (1/36) referrals that required a level 3 or 4 investigation.

Accordingly, the Law enforcement RRM envisioned by the County only requires modest time and expense in level 1 or 2 for the majority of referrals and more substantial time and expense in level 3 or 4 for the minority of referrals. In effect, resources are focused on precisely the Legislature’s purpose here: protecting children in harm’s way.

Child Protection Agencies

The question arises as to whether law enforcement is functioning under CANRA as a child protection agency or a criminal justice agency. The County follows the ruling in Alejo v. City of Alhambra (75 Cal.App.4th 1180, 1187)⁴ which indicated that a police officer when functioning under CANRA is “... an employee of a child protection agency”.

However, Finance staff believe that police officers serve a criminal justice function when responding to ‘serious’ child abuse referrals. In this regard, Ms. Martinez,

² In the Journal of Juvenile Law, 2001-2002, ““SILENT SCREAMS” - ONE LAW ENFORCEMENT AGENCY'S RESPONSE TO IMPROVING THE MANAGEMENT OF CHILD ABUSE REPORTING AND INVESTIGATIONS”, by Leroy D. Baca, Paul Jendrucko, Daniel Scott, 2001-2002 La Verne Law Review, Inc, attached to Los Angeles County’s. August 30, 2007 filing with the Commission .

³ See DOJ report data in Exhibit 5.

⁴ The Alejo case is attached in Exhibit 7.

Finance's spokesperson, after reading the 2004 Child Abuse and Neglect Reporting Act (CANRA) Task Force Report, maintains that levels 3 and 4 are only necessary when the officer is to perform criminal justice functions⁵. She indicates that:

"... the law enforcement agency assists Child Welfare agencies and Child Protective Services with investigations of serious child abuse and neglect to determine whether criminal offenses have occurred that necessitate intervention by the criminal justice system. This (CANRA Task Force) statement demonstrates, contrary to the assertions made by the claimant, that the activities in Levels 3, 4, and 5 are not requirements of CANRA but a more extensive investigation needed for the criminal justice system to apprehend and prosecute a criminal and therefore should not be reimbursable." (Emphasis added.)

The County contends that when law enforcement investigates serious child abuse under CANRA, it does so with the express purpose of completely and accurately preparing and submitting DOJ's SS8583 report. The Alejo Court finds no criminal justice responsibilities here and explains, on page 1,187, that:

"There are sound public policy reasons for the Legislature's imposition of a mandatory reporting duty on police officers. Police officers, unlike ordinary citizens, are specifically trained in the detection, investigation and response to cases of suspected child abuse. Moreover, police officers are in the unique position to discover cases of child abuse because the natural reaction of a relative, friend or neighbor who has observed signs of abuse is to call the police just as Hector did here. The Child Abuse and Neglect Reporting Act contains an elaborate system for reporting and cross-reporting known and suspected cases of child abuse for the purpose of "protect(ing) children from abuse". Section 11164, subd. (a)). ... the whole system depends on professionals such as doctors, nurses, school personnel and peace officers who initially

⁵ These functions are not reimbursable pursuant to Government Code § 17556(g) which provides that "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following ... (g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."

receive reports of child abuse to investigate, and where warranted, report those accounts to the appropriate agencies. If these professionals, including the police, simply ignore those reports, the Legislature's entire scheme of child abuse prevention is thwarted."

Under CANRA, then, law enforcement officers along with doctors and other professionals are charged with investigating and reporting child abuse. The purpose here is not to determine whether criminal justice offenses have occurred.

Further, as noted in the San Jose Police department public information bulletin, found in Exhibit 7, the police are often first responders in child emergencies and in a unique position to discover cases of child abuse. Calling 911 brings the police to the scene if "the child is in imminent danger of injury, death or sexual abuse" or if the child "... has injuries that need medical attention" or "if the child would not be safe returning or remaining home". These are the times when it is "most appropriate to call the police to make the initial (child abuse) report".

Accordingly, under CANRA, law enforcement's role, even for serious child abuse emergencies, is to protect the child and report abuse if 'substantiated' or 'inconclusive' to DOJ.

Nevertheless, in an abundance of caution to ensure that no criminal justice activities were mixed in with CANRA activities, a detailed re-examination of every RRM activity was undertaken. Finance's standard, that the activities in levels 3 and 4 are reasonably necessary to prepare and submit a DOJ SS8583 report, was used in evaluating if an activity remained in the revised RRM. Further, activities that were not repetitive in nature, but were only required in certain level 3 or 4 cases, were removed from the RRM and placed in the actual cost sections of the Ps&Gs⁶.

⁶ These non-repetitive items included tests and examinations similar to those continuing activities recommended by SCO, on page 3 of their Commission filing. SCO indicated that reimbursable activities include those to:

"... gather and evaluate evidence when reasonably necessary to make evidentiary findings on suspects and victims. Victim costs include medical exams for sexual assault and/or physical abuse, mental health exams, and autopsies. Suspects costs include those incurred for DNA and polygraph testing. Also included when reasonably necessary to make an

Revised RRM

The re-evaluation of the law enforcement RRM was led by Sergeant Dan Scott and Deputy Suzie Ferrell, of the County Sheriff's department. Their re-evaluation focused on whether a specific activity should remain in the RRM or be removed. Fortunately, a new time survey of specific activities was not necessary as the standard time component for each activity was discernable. If an activity was removed, an appropriate amount of time was also removed. The results are as follows.

The new level 1, where no child abuse is reported after only an initial review of child abuse allegations, is similar to the prior level one. The County's re-evaluation of level 1, based on Finance' standards, required an 8 minute reduction. The new level 1 takes 102 minutes to complete, not the 110 minutes first proposed by the County.

The time to complete the new level 2, where no child abuse is reported after only an initial review of child abuse allegations and a patrol investigation, is 268 minutes, which is identical to the time for the prior level 2.

A new level 3, where child abuse was reported to DOJ as 'inconclusive' or 'substantiated', replaces the previous levels 3 and 4, where child abuse involved non-severe injuries (level 3) or severe injuries (level 4). This resulted in a reduction of 2,258 minutes (838 minutes (new level 3) – 934 minutes (prior level 3) – 2162 minutes (prior level 4)).

It should be noted that the new level 3 does not include certain activities which were found to be non-repetitive. For example, a medical exam for determining Sexual assault, a DOJ reporting category, is not included. Provision for recovering costs for these medical exams and other reasonably necessary activities under an actual cost methodology is found on page 3 of Exhibit 1.

The County's revised law enforcement time-studied activities also include clarifying changes to activity descriptions. Technical jargon was eliminated.

The County's revised law enforcement levels are:

evidentiary finding, are the costs of video taping interviews of victims and suspects.”

Level 1: No Child Abuse Based on Preliminary Information (Suspected Child Abuse Report (SCAR) or Call-For-Service)

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and closed with no further action taken if no child abuse is indicated based on information received by the agency. The Statewide average time in performing a Level 1 service was found to be 102 minutes. The steps that must be taken by law enforcement personnel in performing this service along with the average time per step are:

Duty	Time in Minutes
Officer receives, prints, or transcribes child abuse reports (SCARs or calls-for-service) from the public, cross-reporting agency department, and mandated reporters.	15
Officer processes child abuse report into agency's tracking system	7
Officer reviews report and determines based on the SCAR or call-for-service that no further investigation is required	33
Officer's findings are entered into agency's system	26
Supervising officer reviews investigation findings and approves closure of report indicating no child abuse.	21
TOTALS FOR LEVEL 1	102

Level 2: Patrol Officer Investigation, No Child Abuse

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and if child abuse is not suspected after a patrol officer's investigation, the incident must be documented and closed. The Statewide average time in performing a Level 2 service was found to be 268 minutes. The steps that must be taken by law enforcement personnel in performing this service along with the average time per step are:

Duty	Time in Minutes
Officer receives, prints or transcribes child abuse reports (SCARs or calls-for-service) from the public, cross-reporting agency department, and mandated reporters.	15
Officer processes child abuse report into agency's tracking	7

Duty	Time in Minutes
system	
Officer reviews report and assigns for appropriate follow-up investigation	21
Patrol officer receives call-for-service and acknowledges call	8
Patrol officer conducts preliminary interview with child/children	43
Patrol officer conducts preliminary interviews with parents, siblings, witnesses, and/or suspect(s)	47
Patrol officer enters findings into agency's systems (ends call in computer aided system and documents findings)	76
Supervising officer reviews investigation findings and approves closure of report indicating no child abuse.	51
TOTALS FOR LEVEL 2	268

Level 3: Reported CACI Investigation

All child abuse allegations, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, and investigated. If suspected child abuse has not been ruled out after a patrol officer's investigation, an in depth investigation must be completed to determine if the child abuse is "unfounded," 'inconclusive' or 'substantiated'.

If child abuse is "substantiated" or "inconclusive," it must be reported to the State Department of Justice. Before it is reported, certain Level 3 steps, which go beyond those found in Level 1 and 2, must be performed.

The Statewide average time in performing a Level 3 service was found to be 838 minutes. The steps that must be taken by law enforcement personnel in performing this level of service along with the average time per step are:

Duty	Time in Minutes
Officer receives, prints or transcribes child abuse reports (SCARs or calls-for-service) from the public, cross-reporting agency department, and mandated reporters.	15
Officer processes child abuse report into agency's tracking system	7
Officer reviews report and assigns for appropriate follow-up	21

Duty	Time in Minutes
investigation	
Patrol officer receives call-for-service and acknowledges call	8
Patrol officer conducts preliminary interview with child/children	43
Patrol officer conducts preliminary interviews with parents, siblings, witnesses, and/or suspect(s)	47
Patrol officer enters findings into agency's systems (ends call in computer aided system, writes report, enters evidence)	104
Supervising officer reviews investigation findings and approves report indicating child abuse is suspected.	51
Secretary distributes, processes report	31
Child abuse investigator reviews child abuse report	26
Child abuse investigator conducts suspect background check	16
Child abuse investigator confers with social services	34
Child abuse investigator interviews child/children	90
Child abuse investigator interviews witnesses	52
Child abuse investigator interviews suspect(s)	90
Child abuse investigator writes additional reports	99
Supervisor approves reports	31
Secretary process final files and reports	40
Child abuse investigator completes DOJ/CACI form	17
Child abuse investigator completes advisement form to suspect(s)	16
TOTALS FOR LEVEL 3	838

Actual Cost Reimbursements for Additional Level 3 Activities

Actual cost reimbursement is provided for additional services not found in the Level 3 RRM. These services are reasonably necessary in certain cases where it is not clear if a reportable abuse has occurred or if certain person(s) is/are reportable suspect(s).

Claimants may be reimbursed for the actual costs paid for each additional service and the associated labor cost of law enforcement reasonably necessary to provide the service. Claimants may perform time studies in order to compute their labor costs.

The following table itemizes the additional services along with some illustrative costs. In order to be claimed, each service must be associated with a particular Level 3 case.

Additional Level 3 – Child Abuse Investigation Services	Claimant’s Actual Service Cost (a)	Claimant’s Law Enforcement Labor Cost (b)	Total Cost (a+b)
Medical Exam – Sexual Assault	\$730	\$160	\$890
Medical Exam – Physical Abuse	\$200	\$160	\$360
Polygraph	\$200	\$160	\$360
Collect, Store, and Review Evidence	\$20	\$160	\$180
Obtain Search Warrant	\$10	\$240	\$250
Mental Health Examination	\$200	\$160	\$360
Autopsies	Actual	\$160	
DNA Testing	Actual	\$50	
Video Taping Interviews (Victim or Suspect)	\$20	\$240	\$260

As previously noted in footnote 5 on page 7, the (above) additional level 3 – child abuse services include those that are recommended in SCO’s commentary. An additional activity, to “obtain a search warrant”, was added to SCO’s list. This activity is necessary when it is the only alternative enabling the collection of evidence.

Many other SCO recommendations were incorporated in the County’s revised ICAN Ps&Gs.

SCO’s Recommendations

On April 1, 2010, Ms. Jill Kanemasu, SCO’s Chief of the Bureau of Payments, filed “comments and recommendations” on the County’s ICAN Ps&Gs. Many of her recommendations are incorporated in the County’s most recent Ps&Gs revision which follows this section.

Regarding language introducing the subject of RRM claiming, in Section IV. REIMBURSABLE ACTIVITIES, Ms. Kanemasu recommends the following language:

“To be eligible for mandate cost reimbursement for any fiscal year, only actual costs may be claimed except where reasonable reimbursement methodology rates are adopted as set forth in Section IV B”

This recommendation has been incorporated in the revised Ps&Gs.

Under Section IV B Standard Costs, Ms. Kanemasu recommends the following change.

“IV B. Reasonable Reimbursement Methodology

Reimbursable labor costs may be recovered for performing law enforcement and county welfare agency activities by using reasonable reimbursement methodology set forth below. These times would then be multiplied by the claimant’s average productive hourly rate, computed in accordance with State Controller’s Office claiming instructions to obtain a standard unit cost. The cost is then multiplied by the number of units to determine reimbursable costs.”

This recommendation has been incorporated in the revised Ps&Gs.

Under Section IV C. Reimbursable Activities, Ms. Kanemasu recommends that:

“Claimants must use reasonable reimbursement methodology rates adopted by the Commission.”

Here, Ms. Kanemasu removes the County’s language giving claimants the option of claiming the costs under either an RRM or an actual cost methodology. Upon reflection, this appears reasonable and proper considering that actual costs incurred for this program were incurred as early as July 1, 1999. Providing contemporaneous source documents supporting an actual cost claim for the specific activities detailed in an RRM is problematic if not impossible. Accordingly, SCO’s recommendation here has been incorporated in the revised Ps&Gs.

Regarding training, Ms. Kanemasu maintains that it be done “one time per employee” and that claimants not be reimbursed for the costs of those “ICAN staff” required to attend. She recommends that training be placed under “One-time Activities” as follows:

“C. Develop and train ICAN staff in State Department of Justice (DOJ) ICAN requirements. Reimbursable specialized ICAN training costs include those incurred to compensate instructors for their time in

participating in training session and to provide necessary facilities, training materials and audio visual presentations. (One time per employee)

Here, the County disagrees in two respects.

First, in order to provide training once to each employee who may be possibly called upon to comply with ICAN requirements, hereinafter referred to as 'ICAN staff', the training should be providing annually. This is required, if for no other reason, to provide the required training to new employees.

Moreover, the training should be updated at least annually to reflect changes in DOJ's "ICAN requirements". For example, on January 5, 2010 DOJ received a 'notice of approval' from the California Office of Administrative Law⁷ to amend "... provisions requiring local agencies to report child abuse and neglect to the Child Abuse and Neglect Central Index (CACI) in order to provide more clear guidance to local agencies regarding the reporting process".

In addition, annual training is required to address recent developments in the investigation of child abuse which is necessary before a DOJ SS5853 report can be filed. For example, trainees need to be aware of the changing concepts of "reasonable suspicion" which prompts them to investigate. Here, the Assembly Committee on Public Safety, in their analysis of AB 2380 for their April 13, 2010 hearing⁸, notes, on page 2, describes the problem:

"The Los Angeles City Attorney's Office has discovered through their work with the Inter-agency Council on Child Abuse and Neglect that many mandated reporters are unclear on (what) constitutes 'reasonable suspicion'. Many have reported that they feel that have to wait until they have concrete evidence before they can notify the authorities. ... This lack of clarity has resulted in many mandated reporters failing to properly report their reasonable suspicions of child abuse or neglect."

Improved approaches to address emerging problems, such as the one facing the Assembly Committee (noted above), is crucial. By limiting the required training to one "time per employee", new approaches in meeting ICAN requirements would

⁷ A copy of this notice is found in Exhibit 8.

⁸ A copy of this analysis is found in Exhibit 9.

not be provided. Only the same old approaches would be used by those trained on old requirements.

Also, one-time (per employee) training would result in some employees being trained on old approaches and requirements and some on new ones. Under these circumstances, inconsistent enforcement of DOJ's reporting requirements could result within the same jurisdiction.

Therefore, it is recommended that ICAN training be provided annually to all ICAN staff.

Second, claimants should be reimbursed costs incurred for training participants as well as instructors. The County is unaware of any funding disclaimer which allows the State to avoid reimbursement for any activity that is "reasonably necessary" meeting a mandate requirement. Here, the training mandate requires participation of the trainers as well as the trainees. The trainees are more than "reasonably necessary" for training to occur, they are absolutely necessary.

Accordingly, reimbursement for trainee costs is provided for in the County's revised Ps&Gs.

Therefore, the County places the ICAN Ps&Gs training reimbursement provision under on-going activities, and modifies SCO's language to read:

Develop and annually update ICAN training programs and annually train those employees involved in complying with the State Department of Justice (DOJ) ICAN requirements . Reimbursable specialized ICAN training costs include those incurred to compensate instructors and trainees for their time in participating in training session and to provide necessary facilities, training materials and audio visual presentations.

With regard to Ms. Kanemasu's recommendation for reimbursement of the costs of necessary computer and software items on a one-time basis, the County has modified her language. There is a continuing need to update these items to meet changing DOJ requirements. He County's language here is:

To develop and update computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Prorate only the costs related to the mandate.

Ms. Kanemasu also recommends reimbursement for the one-time costs incurred to establish due process procedures reasonably necessary to provide "... 14th amendment (protections) which need to be afforded to suspects reported to ... DOJ's Child Abuse Central Index (CACI)".

Here, the County agrees with SCO, except that the need to provide due process protections is a continuing one. As noted in the County's January 21, 2010 ICAN Ps&Gs filing with the Commission:

"Due process costs incurred by law enforcement and county welfare agencies to develop and maintain ICAN due process procedures are reasonably necessary to comply with federal due process procedural protections under the 14th Amendment which need to be afforded suspects reported to the DOJ's Child Abuse Central Index [CACI]. The Court, in Humphries v. County of Los Angeles, 554 F.3d 1170 [2009], noted [here on page 29 of Exhibit 8 (of County's January 21, 2010 filing)], that unlike the investigating officer "... the County is not entitled to qualified immunity for acting in good faith reliance on state law" and that "... the County is subject to liability under Monell v. Department of Social Services, if a "policy or custom" of the County deprived the Humphries of their constitutional rights". Reimbursement for the costs of providing these federal constitutional protections is provided for in the County's revised Ps&Gs as the need to provide them arose entirely under the State mandated ICAN program." (emphasis added.)

Therefore, the County's modification of SCO's language adds the (above) requirement to maintain, as well as to establish, due process protections as follows:

Establish and maintain due process procedures reasonably necessary to comply with due process procedural protections under the 14th Amendment which need to be afforded suspects reported to DOJ's Child Abuse Central Index (CACI).

Regarding record retention requirements, The County agrees with SCO and incorporates their recommendation into the County's revised Ps&Gs as follows:

Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports, shall:

Retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice for a minimum of 8 years for counties and cities (a higher level of service above the two- year record retention requirement pursuant to Gov. Code sections 26202 (cities) and 34090 (counties).) If a subsequent report on the same suspected child abuser is received within the first 10-year period, the report shall be maintained for an additional 10 years. (Pen. Code, sec. 11169, subd. (c).)

A county welfare department shall:

Retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice for as minimum of 7 years for welfare records (a higher level of service above the three-year record retention requirement pursuant to Welf. & Inst. Code sec. 10851.) If a subsequent report on the same suspected child abuser is received within the first 10-year period, the report shall be maintained for an additional 10 years. (Pen. Code, sec. 11169, subd. (c).)

Finally, Ms. Kanemasu recommends changes which correct typographical errors in the County's ICAN Ps&Gs or which conform 'boilerplate' Ps&Gs language to current law. The County accepts these changes without exception and has modified its revised Ps&Gs accordingly.

Accordingly, for all of the above reasons, the County revises and presents its ICAN Ps&Gs and RRM's in the pages that follow.

**Los Angeles County's
Revised Parameters and Guidelines and Proposed Time Standards
Interagency Child Abuse and Neglect (ICAN) Investigation Reports**

I. SUMMARY OF THE MANDATE

On December 19, 2007 the Commission on State Mandates (Commission) adopted a Statement of Decision [00-TC-22] finding, on pages 3-7, that the test claim legislation imposes a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission found that, since July 1, 1999, cities and counties are incurring reimbursable costs in implementing ICAN's requirements, including those to: distribute the State Department of Justice [DOJ] Suspected Child Abuse Report form [SS 8572] to mandated reporters; accept and refer initial child abuse reports; cross-report child abuse among designated local agencies; report to the District Attorney and licensing agencies; file additional cross-reports in child death cases; investigate and report [on form SS 8583] suspected child abuse cases to DOJ; notify the suspected abuser that he or she has been reported to DOJ's Child Abuse Central Index; notify the mandated reporter of the investigation results; respond to DOJ requests for information; notify the suspected child abuser that he or she is in DOJ's Child Abuse Central Index; obtain the original investigative report [if previous report(s)] but draw independent conclusions on the current instance; retain investigative reports for seven years or more as specified.

II. ELIGIBLE CLAIMANTS

Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (c), as amended by Statutes 1998, chapter 681, states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The County of Los Angeles filed the test claim on June 29, 2001, establishing eligibility for fiscal year 1999-2000 for those test claim statutes in effect on July 1, 1999 and later periods as specified under Section IV. Reimbursable Activities herein for test claim statutes in effect subsequent to July 1, 1999.

Actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed except where reasonable reimbursement methodology rates are adopted as set forth in Section IV.B.

IV.A. Actual Costs

Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records, including time survey forms, time logs, sign-in sheets, and, invoices, receipts and unit cost studies using source documents.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants may use time studies to support labor [salary, benefit and associated indirect] costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office. The reimbursable

time recorded on each time survey form must be for specific reimbursable activities as detailed herein and as further described in the 2005 "Guide for Reporting Child Abuse to the California Department of Justice", published by the California Department of Justice, attached hereto and incorporated herein by reference. An employee's reimbursable time is totaled and then multiplied by their productive hourly rate, as that term is defined in the State Controller's Office annual claiming instruction manual, found on www.sco.ca.gov. If a time study sample is used to claim time for 4 through 9 staff, at least 2 staff should be time surveyed. If 10 or more staff are claimed, a 20% sample, rounded to the nearest whole number of cases, should be taken.

IV.B. Reasonable Reimbursement Methodology

Reimbursable labor costs may be recovered for performing law enforcement and county welfare agency activities by using a reasonable reimbursement methodology set fourth below. These times would then by multiplied by the claimant's average productive hourly rate, computed in accordance with State Controller's Office claiming instructions to obtain a standard unit cost. This cost is then multiplied by the number of units to determine reimbursable costs.

The standard times for law enforcement agencies are:

Level - 1 No Child Abuse Based on Preliminary Information (Suspected Child Abuse Report (SCAR) or Call-for-Service.

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and closed with no further action taken if no child abuse is indicated based on information received by the agency.

The standard time for Level 1 is 102 minutes.

Level 2 - Patrol Officer Investigation, No Child Abuse

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and if child abuse is not suspected after a patrol officer's investigation, the incident must be documented and closed.

The standard time for Level 2 is 268 minutes.

Level 3 - Reported CACI Investigation

All child abuse allegations, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, and investigated. If suspected child abuse has not been ruled out after a patrol officer's investigation, an in depth investigation must be completed to determine if the child abuse is "unfounded," 'inconclusive' or 'substantiated'.

If child abuse is "substantiated" or "inconclusive," it must be reported to the State Department of Justice. Before it is reported, certain Level 3 steps, which go beyond those found in Level 1 and 2, must be performed.

The standard time for Level 3 is 838 minutes.

Actual cost reimbursement is available for additional services not found in the Level 3 RRM. These services are described in IV.C(D) below.

The standard times for county welfare agencies are:

1. Completion of the Child Abuse Summary Report (SS 8583) form

The standard time is 22 minutes.

2. Completion of the Suspected Child Abuse Report (SS 8572) form

The standard time is 23 minutes.

3. Completion of the Notice of Child Abuse Central Index Listing (SOC 832) form.

The standard time is 13 minutes.

4. Filing copies of the SS 8583 and SS 8572 forms with a copy of the investigative report.

The standard time is 22 minutes.

5. Response to DOJ inquires.

The standard time is 9 minutes.

IV.C. Reimbursable Activities

The claimant is only allowed to claim and be reimbursed for the increased costs of reimbursable activities. If supervisory costs are claimed, care should be taken to ensure that these costs are not also claimed under claimant's indirect costs. Claimants may only use reasonable reimbursement methodology rates adopted by the Commission.

For each eligible claimant, the following activities are reimbursable:

A. Develop and maintain update Departmental policies and procedures necessary to comply with ICAN's requirements.

B. Participate in meetings with State and local agencies in coordinating ICAN cross-reporting and collaborative efforts.

C. Develop and annually update ICAN training programs and annually train those employees involved in complying with the State Department of Justice (DOJ) ICAN requirements . Reimbursable specialized ICAN training costs include those incurred to compensate instructors and trainees for their time in participating in training session and to provide necessary facilities, training materials and audio visual presentations.

D. To develop and update computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Prorate only the costs related to the mandate.

E. Actual cost reimbursement is available for additional services not found in the Level 3 RRM. These services are necessary in certain Level 3 cases where it is not clear if a reportable abuse has occurred or if certain person(s) is/are reportable suspect(s).

Claimants may be reimbursed for the actual costs paid for each additional service and the associated labor cost of law enforcement reasonably necessary to provide the service. Claimants may perform time studies in order to compute their labor costs.

The following table itemizes the additional services along with some illustrative costs. In order to be claimed, each service must be associated with a particular Level 3 case.

<u>Additional Level 3 – Child Abuse Investigation Services</u>	<u>Claimant’s Actual Service Cost (a)</u>	<u>Claimant’s Law Enforcement Labor Cost (b)</u>	<u>Total Cost (a+b)</u>
Medical Exam – Sexual Assault	\$730	\$160	\$890
Medical Exam – Physical Abuse	\$200	\$160	\$360
Polygraph	\$200	\$160	\$360
Collect, Store, and Review Evidence	\$20	\$160	\$180
Obtain Search Warrant	\$10	\$240	\$250
Mental Health Examination	\$200	\$160	\$360
Autopsies	Actual	\$160	
DNA Testing	Actual	\$50	
Video Taping Interviews (Victim or Suspect)	\$20	\$240	\$260

F. Establish and maintain due process procedures reasonably necessary to comply with due process procedural protections under the 14th Amendment which need to be afforded suspects reported to DOJ’s Child Abuse Central Index (CACI).

G. The following reimbursable activities for local agency departments are:

Distributing the Suspected Child Abuse Report Form

Any City or County police or sheriff’s department, county probation department if designated by the county to receive mandated reports, or county welfare department shall:

- Distribute the child abuse reporting form adopted by the Department of Justice currently known as the “ Suspected Child Abuse Report” Form SS 8572) to mandated reporters. (Pen Code, Sec. 11168, formerly Sec. 11161.7)

Reporting Between Local Departments

Accepting and Referring Initial Child Abuse reports when a department takes Jurisdiction:

Any City or County police or sheriff's department, county probation department if designated by the county to receive mandated reports or county welfare department shall:

- Transfer a call electronically or immediately refer the case by telephone, fax, or electronic transmission, to an agency with proper jurisdiction, whenever the department lacks subject matter or geographical jurisdiction over an incoming report of suspected child abuse or neglect. (Pen. Code, Sec. 11165.9)

Cross-Reporting of Suspected Child Abuse or Neglect from County Welfare and Probation Departments to the law Enforcement Agency with Jurisdiction and the District Attorney's Office:

A county probation department shall:

- Report by telephone, fax or electronic transmission immediately, or as soon as practically possible, to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse, as defined in Penal Code section 11165.6 except acts or omissions coming within subdivision (b) of section 11165.2, or reports made pursuant to section 11165.13 based on risk to a child which releases solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare department. (Pen Code Sec. 11166, subd. (h), now subd. (j).)
- Send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

As of January 1, 2001, initial reports may be made by fax or electronic transmission, instead of by telephone, and will satisfy the requirement for a written report within 36 hours. (Pen Code Sec. 11166, subd. (h), now subd. (j).)

A county welfare department shall:

- Report by telephone, fax or electronic transmission immediately, or as soon as practically possible, to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse, as defined in Penal Code section 11165.6 except acts or omissions coming within subdivision (b) of section 11165.2, or reports made pursuant to section 11165.13 based on risk to a child which releases solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare department.
- This activity does not include making an initial report of child abuse and neglect from a county welfare department to the law enforcement agency having jurisdiction over the case, which was required under prior law to be made "without delay." (Pen Code Sec. 11166, subd. (h), now subd. (j).)
- Send a written report thereof within 36 hours of receiving the information concerning the incident to nay agency, including the law enforcement agency having jurisdiction over the case, to which it is required to make a telephone report under this subdivision.

As of January 1, 2001, initial reports may be made by fax or electronic transmission, instead of by telephone, and will satisfy the requirement for a written report within 36 hours. (Pen Code Sec. 11166, subd. (h), now subd. (j).)

Cross-Reporting of Suspected Child Abuse or neglect from the law Enforcement Agency to the County Welfare and Institutions Code Section 300 Agency, County Welfare, and the District Attorney's Office:

A City or county law enforcement agency shall:

- Report by telephone , fax or electronic transmission immediately, or as soon as possible, to the agency given responsibility for investigation of cases under Welfare and Institution Code section 300 and to the district attorney's office every known or suspected instance of child abuse

reported to it, except acts or omissions coming within Penal Code 11165.2, subdivision (b), which shall be reported only to the county welfare department. (Pen Code Sec. 11166, subd. (i), now subd. (k).)

- Report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. (Pen Code Sec. 11166, subd. (i), now subd. (k).)
- Send a written report thereof within 36 hours of receiving the information concerning the incident to nay agency, including the law enforcement agency having jurisdiction over the case, to which it is required to make a telephone report under this subdivision.

As of January 1, 2001, initial reports may be made by fax or electronic transmission, instead of by telephone, and will satisfy the requirement for a written report within 36 hours. (Pen Code Sec. 11166, subd. (i), now subd. (k).)

Receipt of Cross-Reports by District Attorney's Office:

A district attorney's office shall:

- Receive reports of every known or suspected instance of child abuse reported to law enforcement, county probation or county welfare departments, except acts or omissions of general neglect coming within Penal Code section 11165.2 subdivision (b). (Pen Code Sec. 11166, subds. (h) and (i), now subds. (j) and (k).)

Reporting to Licensing Agencies:

Any City or County police or sheriff's department, county probation department if designated by the county to receive mandated report or county welfare department shall:

- Report by telephone immediately or as soon as practically possible to the appropriate licensing agency every known or suspected instance of child abuse or neglect when the instance of abuse or neglect occurs while the child is being cared for in a child day care facility, involves a child day care license staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility license or staff person. The agency shall also send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. The agency shall send the licensing agency a copy of its investigation reported any other pertinent materials.

As of July 31, 2001, initial reports may be made by fax or electronic transmission, instead of by telephone, and will satisfy the requirement for a written report within 36 hours. (Pen Code Sec. 11166.2.)

Additional Cross-Reporting in Cases of Child Death:

A county welfare department shall:

- Cross-report all cases of child death suspected to be related to child abuse or neglect to the law enforcement. (Pen Code Sec. 11166.9, subd. (k), now section 11174.34, subd. (l).)
- Create a record in the Child Welfare Services/Case Management System (CWS/CMS) on all cases of child death suspected to be related to child abuse or neglect. (Pen Code Sec. 11166.9, subd. (l), now section 11174.34, subd. (l).)
- Enter information into the CWS/CMS upon notification that the death was subsequently determined not to be related to child abuse or neglect. (Pen Code Sec. 11166.9, subd. (l), now section 11174.34, subd. (l).)

Investigation of Suspected Child Abuse, and reporting to and from the State department of Justice

Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports or county welfare department shall:

- Complete an investigation to determine whether a report of suspected child abuse or severe neglects is unfounded, substantiated or inconclusive, as defined in Penal Code section 11165.12, for purposes of preparing and submitting the state “Child Abuse Investigation Report: Form SS 8583, or subsequent designated form, to the department of Justice. (Pen. Code, sec. 11169, subd. (a); Cal Code Regs., tit. 11, sec. 903, “Child Abuse Investigation report” Form SS 8583.)
- Forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect which is determined to be substantiated or inconclusive, as defined in Penal Code section 11165.12. Unfounded reports, as defined in Penal Code section 11165.12, shall not be filed with the Department of Justice. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. (Pen. Code, sec. 11169, subd. (a); Cal. Code regs., tit. 11, sec. 903, “Child Abuse Investigation Report” Form SS 8583.)

Notifications following Reports to the Central Child Abuse Index

Any city or county police or sheriff’s department, county probation department if designated by the county to receive mandated reports or county welfare department shall:

- Notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index, in any form approved by the Department of Justice, at the time the “Child Abuse Investigation report” is filed with the Department of Justice. (Pen Code Sec. 11169, subdivision (b).)
- Make relevant information available, when received from the Department of Justice, to the child custodian, guardian ad litem appointed under section 326, or counsel appointed under section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse or severe neglect. (Pen Code Sec. 11170, subd. (b)(1).)

- Inform the mandated reporter of the results of the investigation and of any action the agency is taking with regard to the child or family, upon completion of the child abuse investigation or after there has been a final disposition in the matter. (Pen Code Sec. 11170, subd. (b)(2).)
- Notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index, upon receipt of relevant information concerning child abuse or neglect investigation reported contained in the index from the Department of Justice when investigating a home for the department children. The notification shall include the name of the reporting agency and the date of the report. (Pen. Code, sec. 11170, subdivision (b)(5), now subdivision (b)(7).)

Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports, or county welfare department shall:

- Obtain the original investigative report from the reporting agency, and draw independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child, when a report is received from the Child Abuse central Index. (Penal Code Section 11170, subdivision (b)(6)(A), now (b)(10)(A).)

Any city or county law enforcement agency, county probation department, or county welfare shall:

- Notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index, upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice regarding placement with a responsible relative pursuant to welfare and Institutions Code sections 281.5, 305, and 361.3. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement. (Pen. Code, sec. 11170, subd. (c).)

Record Retention

Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports, shall:

Retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice for a minimum of 8 years for counties and cities (a higher level of service above the two-year record retention requirement pursuant to Gov. Code sections 26202 (cities) and 34090 (counties).) If a subsequent report on the same suspected child abuser is received within the first 10-year period, the report shall be maintained for an additional 10 years. (Pen. Code, sec. 11169, subd. (c).)

A county welfare department shall:

Retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice for as minimum of 7 years for welfare records (a higher level of service above the three-year record retention requirement pursuant to Welf. & Inst. Code sec. 10851.) If a subsequent report on the same suspected child abuser is received within the first 10-year period, the report shall be maintained for an additional 10 years. (Pen. Code, sec. 11169, subd. (c).)

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Capital Assets and Equipment

Report the purchase price paid for capital assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1)

classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

Exhibits

Los Angeles County's Review of State Agency Comments
Revised Parameters and Guidelines and Proposed Time Standards
Interagency Child Abuse and Neglect (ICAN) Investigation Reports [00-TC-22]

- Exhibit 1: Revised Law Enforcement Time Standards and Activity Levels
- Exhibit 2: Declaration of Suzie Ferrell, Deputy, Field Operations Support Services, Sheriff's Department, County of Los Angeles
- Exhibit 3: Declaration of Daniel Scott, Sergeant, Special Victims Bureau, Child Abuse Detail, Sheriff's Department, County of Los Angeles
- Exhibit 4: Declaration of Leonard Kaye, Auditor-Controller Department, County of Los Angeles
- Exhibit 5: "Child Abuse Cases by Determination" (in 2007), Department of Justice, Madelyn Childs, Manager, Child Abuse Central Index
- Exhibit 6: "Reporting Child Abuse", San Jose Police Department
- Exhibit 7: Alejo v. City of Alhambra, 75 Cal.App.4th 1180.
- Exhibit 8: Notice of Approval of Regulatory Action, Local Agency Reporting - Child Abuse Central Index, California Office of Administrative Law, January 5, 2010.
- Exhibit 9: Assembly Committee on Public Safety, Bill Analysis of AB2380 for the April 13, 2010 Hearing.

Exhibit 1
Law Enforcement Services
Proposed Reasonable Reimbursement Methodology
Los Angeles County's Revised Parameters and Guidelines
Interagency Child Abuse and Neglect (ICAN) Investigation Reports

The County's proposed reasonable reimbursement methodology (RRM) to recover (below) specified labor costs is based on Statewide surveys of the time required to provide child abuse services found to be reimbursable by the Commission on State Mandates (Commission) on December 6, 2007. The time to perform a service is simply multiplied by the claimant's average productive hourly rate to obtain a claimant's labor cost reimbursement. Other reimbursable costs, such as the costs of required medical examinations, are provided for under the actual cost method.

The RRM only includes activities which are reasonably necessary in providing reimbursable child abuse services. Other activities, such as the time necessary to meet additional criminal prosecution duties, are not included. Those activities that are included in the RRM are grouped under three possible Department of Justice (DOJ) investigation scenarios or levels:

Level 1: No Child Abuse Based on Preliminary Information (Suspected Child Abuse Report (SCAR) or Call-For-Service)

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and closed with no further action taken if no child abuse is indicated based on information received by the agency. The Statewide average time in performing a Level 1 service was found to be 102 minutes. The steps that must be taken by law enforcement personnel in performing this service along with the average time per step are:

Duty	Time in Minutes
Officer receives, prints, or transcribes child abuse reports (SCARs or calls for-service) from the public, cross-reporting agency department, and mandated reporters.	15
Officer processes child abuse report into agency's tracking system	7
Officer reviews report and determines based on the SCAR or call-for-service that no further investigation is required	33
Officer's findings are entered into agency's system	26
Supervising officer reviews investigation findings and approves closure of report indicating no child abuse.	21
TOTALS FOR LEVEL 1	102

Level 2: Patrol Officer Investigation, No Child Abuse

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and if child abuse is not suspected after a patrol officer's investigation, the incident must be documented and closed. The Statewide average time in performing a Level 2 service was found to be 268 minutes. The steps that must be taken by law enforcement personnel in performing this service along with the average time per step are:

Duty	Time in Minutes
Officer receives, prints or transcribes child abuse reports (SCARs or calls-for-service) from the public, cross-reporting agency department, and mandated reporters.	15
Officer processes child abuse report into agency's tracking system	7
Officer reviews report and assigns for appropriate follow-up investigation	21
Patrol officer receives call-for-service and acknowledges call	8
Patrol officer conducts preliminary interview with child/children	43
Patrol officer conducts preliminary interviews with parents, siblings, witnesses, and/or suspect(s)	47
Patrol officer enters findings into agency's systems (ends call in computer aided system and documents findings)	76
Supervising officer reviews investigation findings and approves closure of report indicating no child abuse.	51
TOTALS FOR LEVEL 2	268

Level 3: Reported CACI Investigation

All child abuse allegations, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, and investigated. If suspected child abuse has not been ruled out after a patrol officer's investigation, an in depth investigation must be complete to determine if the child abuse is "unfounded," "inconclusive" or "substantiated".

If child abuse is "substantiated" or "inconclusive," it must be reported to the State Department of Justice. Before it is reported, certain Level 3 steps, which go beyond those found in Level 1 and 2, must be performed.

The Statewide average time in performing a Level 3 service was found to be 838 minutes. The steps that must be taken by law enforcement personnel in performing this level of service along with the average time per step are:

Duty	Time in Minutes
Officer receives, prints or transcribes child abuse reports (SCARs or calls-for-service) from the public, cross-reporting agency department, and mandated reporters.	15
Officer processes child abuse report into agency's tracking system	7
Officer reviews report and assigns for appropriate follow-up investigation	21
Patrol officer receives call-for-service and acknowledges call	8
Patrol officer conducts preliminary interview with child/children	43
Patrol officer conducts preliminary interviews with parents, siblings, witnesses, and/or suspect(s)	47
Patrol officer enters findings into agency's systems (ends call in computer aided system, writes report, enters evidence)	104
Supervising officer reviews investigation findings and approves report indicating child abuse is suspected.	51
Secretary distributes, processes report	31
Child abuse investigator reviews child abuse report	26
Child abuse investigator conducts suspect background check	16
Child abuse investigator confers with social services	34
Child abuse investigator interviews child/children	90
Child abuse investigator interviews witnesses	52
Child abuse investigator interviews suspect(s)	90
Child abuse investigator writes additional reports	99
Supervisor approves reports	31
Secretary process final files and reports	40
Child abuse investigator completes DOJ/CACI form	17
Child abuse investigator completes advisement form to suspect(s)	16
TOTALS FOR LEVEL 3	838

Actual cost Reimbursements for Additional Level 3 Activities

Actual cost reimbursement is provided for additional services not found in the Level 3 RRM. These services are reasonably necessary in certain cases where it is not clear if a reportable abuse has occurred or if certain person(s) is/are reportable suspect(s).

Claimants may be reimbursed for the actual costs paid for each additional service. The associated labor cost of law enforcement reasonably necessary to provide the service is also reimbursable. Claimants may perform time studies in order to compute their labor costs.

The following table itemizes the additional services along with some illustrative costs. In order to be claimed, each service must be associated with a particular Level 3 case.

Additional Level 3 – Child Abuse Investigation Services	Claimant's Actual Service Cost (a)	Claimant's Law Enforcement Labor Cost (b)	Total Cost (a+b)
Medical Exam – Sexual Assault	\$730	\$160	\$890
Medical Exam – Physical Abuse	\$200	\$160	\$360
Polygraph	\$200	\$160	\$360
Collect, Store, and Review Evidence	\$20	\$160	\$180
Obtain Search Warrant	\$10	\$240	\$250
Mental Health Examination	\$200	\$160	\$360
Autopsies	Actual	\$160	
DNA Testing	Actual	\$50	
Video Taping Interviews (Victim or Suspect)	\$20	\$240	\$260

**Law Enforcement Services
Proposed Reasonable Reimbursement Methodology (RRM)
Los Angeles County's Revised Parameters and Guidelines
Interagency Child Abuse and Neglect (ICAN) Investigation Reports**

Declaration of Suzie Ferrell

Suzie Ferrell makes the following declaration and statement under oath:

I, Suzie Ferrell, Deputy, Field Operations Support Services, Sheriff's Department, County of Los Angeles, am responsible for developing and implementing methods and procedures to comply with new State-mandated requirements for conducting ICAN investigations, preparing ICAN reports and performing other required ICAN duties.

I declare that I have reviewed the County's initial law enforcement ICAN RRM levels in light of State agency comments and discussions with Sergeant Daniel Scott with the Los Angeles County Sheriff's Department, Special Victims Bureau, Child Abuse Detail.

I declare that I subsequently developed an RRM with three levels or groups of activities to replace the County's initial RRM with four levels.

I declare that the three levels of the replacement RRM are:

Level 1: No Child Abuse Based on Preliminary Information (Suspected Child Abuse Report (SCAR) or Call-For-Service)

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and closed with no further action taken if no child abuse is indicated based on information received by the agency.

I declare that the Statewide average time in performing a Level 1 service was found to be 102 minutes.

Level 2: Patrol Officer Investigation, No Child Abuse

All child abuse reports, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, investigated and if child abuse is not suspected after a patrol officer's investigation, the incident must be documented and closed.

I declare that the Statewide average time in performing a Level 2 service was found to be 268 minutes.

Level 3: Reported CACI Investigation

All child abuse allegations, whether from mandated reporters, the public or a cross-reporting agency department, must be logged in, reviewed, and investigated. If suspected child abuse has not been ruled out after a patrol officer's investigation, an in depth investigation must be completed to determine if the child abuse is "unfounded," "inconclusive" or "substantiated".

If child abuse is "substantiated" or "inconclusive," it must be reported to the State Department of Justice. Before it is reported, certain Level 3 steps, which go beyond those found in Level 1 and 2, must be performed.

I declare that the Statewide average time in performing a Level 3 service was found to be 838 minutes.

Actual Cost Reimbursements for Additional Level 3 Activities

Actual cost reimbursement is provided for additional services not found in the Level 3 RRM. These services, such as medical examinations, are reasonably necessary in certain cases where it is not clear if a reportable abuse has occurred or if certain person(s) is/are reportable suspect(s).

I declare that it is my information or belief that the replacement RRM, found in Exhibit 1 of this filing, contains only those activities that are reasonably necessary in order to complete the state "Child Abuse Investigation Report" Form SS 8583.

I declare that it is my information or belief that those activities necessary to meet additional criminal prosecution duties are not included in the replacement RRM.

I declare that I met and conferred with law enforcement officials throughout the State as well as staff representing State associations in developing a survey instrument to derive standard times in performing ICAN steps now regrouped in the replacement RRM.

I declare that it is my information and belief that the average or standard time for individual ICAN steps, within the three levels of the replacement in Exhibit 1, was obtained from times reported by a representative sample of law enforcement agencies during the initial RRM survey.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and to those matters, I believe them to be true.

4/27/10 Commerce, CA
Date and Place

Erin M. Jewell
Signature

Law Enforcement Services
Proposed Reasonable Reimbursement Methodology (RRM)
Los Angeles County's Revised Parameters and Guidelines
Interagency Child Abuse and Neglect (ICAN) Investigation Reports

Declaration of Daniel Scott

Daniel Scott makes the following declaration and statement under oath:

I, Daniel Scott, a Sergeant with the Los Angeles County Sheriff's Department, Special Victims Bureau, Child Abuse Detail of the County of Los Angeles, am responsible for conducting ICAN investigations, preparing ICAN reports and performing other required ICAN duties.

I declare that I have over 29 years of law enforcement experience, including more than 22 years of service in the Los Angeles County Sheriff's Department Special Victims Bureau as a detective and sergeant specializing in child abuse investigations.

I declare that I have reviewed the comments filed by the State Department of Finance (Finance) on March 30, 2010 regarding the subject RRM, indicating that "... Finance concurs with DSS (the State Department of Social Services) and believes that some of the activities in Levels 1 and 2 are sufficient to comply with the mandated reporting requirement" but that "... Finance believes that the activities in levels 3, 4 and 5 of the RRM extend beyond the limited investigation approved in the Statement of Decision (SOD) for the purpose of preparing and submitting Form SS 8583 to the Department of Justice (DOJ)".

I declare that the SOD, cited by Finance, indicates, on pages 40-41, that an 'active', not a 'limited', investigation "... is necessary in order to complete the state "Child Abuse Investigation Report" Form SS 8583" and that "... before completing a child abuse investigative report form and forwarding it to the state ... an investigation sufficient to determine whether a report of suspected child abuse or neglect is unfounded, substantiated, or inconclusive", as defined by Penal Code section 11165.12, is newly mandated".

I declare that the California Department of Justice (DOJ), in their 2005 "Guide to Reporting Child Abuse to the California Department of Justice, on page 15, defines an "active investigation" in response to a report of known or suspected child abuse as including, at a minimum:

"... assessing the nature and seriousness of the suspected abuse; conducting

interviews of the victim(s) and any known suspect(s) and witness(es); gathering and preserving evidence; determining whether the incident is substantiated, inconclusive or unfounded; and preparing a report that will be retained in the files of the investigative agency.”

I declare that I have reviewed the County’s initial law enforcement ICAN RRM levels and, in light of the above minimum investigation standards for purposes of complying with DOJ’s reporting requirements, propose their replacement with three different levels which are detailed in Exhibit 1, attached to this filing.

I declare that it is my information or belief that the replacement RRM includes only activities that are reasonably necessary in providing reimbursable child abuse services.

I declare that it is my information or belief that those activities necessary to meet additional criminal prosecution duties are not included in the replacement RRM.

I declare that it is my information and belief that the omission of one or more ICAN activities described in Exhibit 1 could impair the requirement to conduct an “active investigation” as defined in the California Department of Justice (DOJ) Form SS 8583.

I declare that it is my information and belief that the omission of one or more ICAN activities described in Exhibit 1 could impair the determination of whether the incident is substantiated, inconclusive or unfounded.

I declare that Form SS 8583 states that a determination that an incident is inconclusive occurs when there is “... insufficient evidence of abuse, not unfounded (incident)”.

I declare that Form SS 8583 requires that a determination that an incident is inconclusive be reported to DOJ and that DOJ will list inconclusive suspect(s) in their Child Abuse Central Index (CACI).

It is my information and belief that the omission of one or more ICAN activities described in Exhibit 1 could result in a finding of insufficient evidence of abuse and that further investigation could provide sufficient evidence, thereby avoid listing an innocent person as a ‘suspect’ in the CACI.

Accordingly, it is my information and belief that the activities described in Exhibit 1 are reasonably necessary in performing ICAN duties.

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

4.23-10@WHITTIER, CA
Date and Place


Signature



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

Exhibit 4

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

ASST. AUDITOR-CONTROLLERS

MARIA M. OMS
CHIEF DEPUTY

ROBERT A. DAVIS
JOHN NAIMO
JUDI E. THOMAS

**Los Angeles County's Review of State Agency Comments
Revised Parameters and Guidelines and Proposed Time Standards
Interagency Child Abuse and Neglect (ICAN) Investigation Reports [00-TC-22]**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, Los Angeles County's [County] representative in this matter, have prepared the attached revised parameters and guidelines [Ps&Gs] and proposed time standards for the Interagency Child Abuse and Neglect [IACN] Investigation Reports [00-TC-22] reimbursement program. This version of the ICAN Ps&Gs updates the draft which was timely filed by the County on January 21, 2010 and includes reasonable reimbursement methodology [RRM] provisions to simplify claiming labor costs of law enforcement and county welfare agencies incurred in performing repetitive ICAN tasks.

I declare that I have met and conferred with state and local officials, claimants and experts in the ICAN field in developing the County's revised ICAN Ps&Gs.

I declare that it is my information and belief that the activities set forth in the revised ICAN Ps&Gs are reasonably necessary in providing ICAN services which were found to be reimbursable in the Commission on State Mandates statement of decision, adopted on December 19, 2007.

I declare that it is my information and belief that costs incurred in performing ICAN activities which are set forth in the County's revised ICAN Ps&Gs are reimbursable "costs mandated by the State", as defined in Government Code section 17514.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and as to those matters I believe them to be true.

5/11/10; Los Angeles, CA

Date and Place

Signature

EDMUND G. BROWN JR.
Attorney General

Exhibit 5
Page 1 of 2
State of California
DEPARTMENT OF JUSTICE



FAX TRANSMISSION COVER SHEET

IMPORTANT/CONFIDENTIAL: This communication is intended only for the use of the individual or entity to which it is addressed. This message contains information from the State of California, Attorney General's Office, which may be privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

DATE: 5/4/2010 **TIME:** 11:29:17 AM **NO. OF PAGES:** 2
(including cover sheet)

TO:
NAME: Leonard Kaye
OFFICE: LA County Auditor
LOCATION: _____
FAX NO: 213-617-8106 **PHONE NO:** _____

FROM:
NAME: Madelyn Childs
OFFICE: BCIA/Child Abuse Central Index (CACI)
LOCATION: 4949 Broadway
FAX NO: 916-227-4094 **PHONE NO:** 916-227-3263

MESSAGE/INSTRUCTIONS

CACI stat request

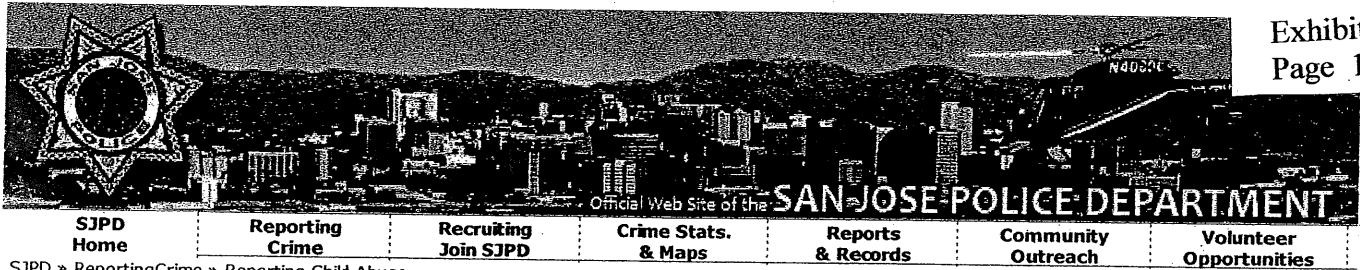
PLEASE DELIVER AS SOON AS POSSIBLE!
FOR ASSISTANCE WITH THIS FAX, PLEASE CALL THE SENDER

CALIFORNIA DEPARTMENT OF JUSTICE
CHILD ABUSE RESPONSE PROCESSOR
ABUSE BY DETERMINATION

Generated: 04/30/2010 2.24 PM

Criteria: For dates from 01/01/2007 until 12/31/2007

Determination	Abuse Type	Count	Percentage
Abuse Suspected	Mental	1	100.00 %
	Total	1	0.00 %
Inconclusive	Mental	2241	25.13 %
	Physical	4516	50.64 %
	Severe Neglect	134	1.50 %
	Sexual Assault/Exp	2026	22.72 %
	Total	8917	37.18 %
Investig Initiated	Sexual Assault/Exp	1	100.00 %
	Total	1	0.00 %
Substantiated	Mental	3258	21.63 %
	Physical	6405	42.52 %
	Severe Neglect	1020	6.77 %
	Sexual Assault/Exp	4379	29.07 %
	Total	15062	62.81 %
Unsubstantiated	Sexual Assault/Exp	1	100.00 %
	Total	1	0.00 %
Grand Total		23982	



SJPD » ReportingCrime » Reporting Child Abuse

Reporting Crime

How To Report A Crime
 Report Crimes Online
 Auto Theft
 Bicycle Theft
 Child Abuse
 Domestic Violence
 Elder Abuse
 Forgery - Fraud - Identity Theft
 Graffiti
 Homeless or Vagrancy Issues
 Loitering and Trespassing
 Missing Persons
 Narcotics Activity
 Noisy Parties
 Non-Moving Vehicle Violations
 Phone Harassment
 Recycling Theft
 Victim Assistance

Definitions of Child Abuse

How do I report suspected child abuse?
 Who must report suspicions of child abuse?
 Are there penalties for a mandated reporter who fails to report child abuse?
 If the allegation of child abuse cannot be proven, will I get into trouble for making the report?
 What should I do if a child tells me about abuse?
 How do I recognize child abuse?
 Why should I report child abuse?
 I'm not sure if this situation is serious enough to report
 As a parent, what can I do to prevent child abuse?
 Where can I learn more about child abuse?

Related Information

Bureau of Investigations
 Crime Prevention Unit
 Metro Unit

Other Links

SCC Adult Protective Services
 CA Dept. of Social Services
 CA Welfare & Institutions Code

Reporting Child Abuse

Definitions of Child Abuse

California state statutes describe physical and sexual abuse, neglect and endangerment. In general, they can be described this way:

Physical abuse is any act(s) which results in non-accidental injuries to a child including patterns of unexplained injuries and injuries that appear to have been caused in a manner inconsistent with the explanation. Physical abuse includes unreasonably restraining a child with tying, caging or chaining and excessive or unreasonably forceful discipline that leave injuries or marks on a child. Physical abuse is also defined as assaultive behavior not usually associated with discipline such as shaking, kicking, cutting and burning.

Neglect is the failure of a parent to provide for the child's physical, emotional, medical and educational well being. California law states that a parent or caretaker who wilfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child. A parent who knowingly fails to protect a child from continuing physical or sexual abuse is also guilty of neglect.

Endangerment is when a parent or caretaker intentionally or recklessly causes or permits a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death including allowing a child to be present where illegal drugs are being made, kept, sold or used and recklessly allowing a juvenile access to a loaded firearm.

How do I report suspected child abuse?

The San Jose Police Department and Santa Clara County Department of Family and Children's Services are the two agencies charged with receiving reports of child abuse occurring in San Jose. These agencies are also responsible for the joint investigation of child abuse allegations. You may report suspicions of child abuse to the San Jose Police Department 24 hours a day by calling 911. The operator will ask you to describe the circumstances and then dispatch a patrol officer to take a report. You may also call at the Santa Clara County Department of Family and Children's Services at (408) 299-2071. A child welfare social worker is available 24 hours a day to take reports.

When reporting suspicions of child abuse, be prepared to provide as much information as you have including the names and addresses of the child and parents and specific data about what happened, who was involved, and when and where the events took place. Other helpful information is what school the child attends, who else might have information about the child's situation, where the child is now and the names of siblings or other members of the household.

Any report made to the San Jose Police Department will automatically be reported to the Santa Clara County Department of Family and Children's Services, as any report made to the Santa Clara County Department of Family and Children's Services will be sent to the San Jose Police Department. This is included in the Child Abuse Protocol for Santa Clara County Law Enforcement outlining requirements for child abuse investigations. However, there are often times when it is most appropriate to call the police to make the initial report.

- If you believe a child is in imminent danger of injury, death or sexual abuse, call 911 and describe the situation to the operator with as much detail as you can. The police have the ability to remove a child from a dangerous situation while a child protection investigation is completed.
- If you believe that a child has injuries that need medical attention, call 911 and provide as much information as possible. The operator may dispatch paramedics and the police to insure that the child receives needed medical care.
- If you believe that the child would not be safe returning or remaining at home, call 911. The police can make arrangements for the temporary care of a child when his home is unsafe.

Who must report child abuse?


California law requires that any person whose job involves working professionally with children and who knows or has reason to believe that a child is being neglected or physically or sexually abused **shall** immediately report the suspected incident to the local police and/or child protection. Mandated reporters include:

1. Childcare custodians (school, daycare, etc.);
2. Health practitioners (medical and non-medical);
3. Employees of child protective agencies (police department and Department of Family and Children's Services (DFCS));
4. Commercial film and photographic print processors;
5. Child visitation monitors;
6. Peace Officers;
7. Probation and parole officers;
8. Custodial officers and defined by PC 831.5;
9. Firefighters, animal control officers, humane society officers;
10. Clergy (excluding confession or its equivalent)


The report must be made as soon as practical.

Are there penalties for a mandated reporter who fails to report child abuse? 


Yes. Failure of a mandated reporter to report suspected abuse is a misdemeanor. Intentionally concealing one's failure to report is a continuing offense until the failure to report is discovered.

If the allegation of child abuse cannot be proven, will I get into trouble for making the report? 

No, you will not. Anyone reporting in good faith (with a reasonable belief) may not be criminally prosecuted or sued in civil court for libel, slander, defamation, invasion of privacy, or breach of confidentiality. A person who knowingly or recklessly makes a false report is not protected from prosecution or civil suit.

What should I do if a child tells me about abuse? 

- Be calm. If you appear to be angry, upset or very emotional, the child will be frightened.
- Let the child tell you about what happened in his own words and then reassure him that you believe him.
- Tell the child that he is not in trouble and that he did the right thing to tell you about what happened.
- Tell the child that you want to make sure that he will be safe. Let him know that you are going to get help so that this doesn't happen again.
- Report what the child told you to the police or child protection.

How do I recognize child abuse? 


Signs of physical abuse include unexplained or unreasonable bruises, burns, cuts, abrasions and broken bones. Patterned marks made by objects like belts, cords, teeth, handprints, and clothes or curling irons can be strongly indicative of physical abuse especially when combined with a child's description of how the injury was inflicted. Another strong indicator of child abuse is an explanation for injuries that would be unusual in a given age group. For example, a broken arm or leg in a four-month old child is blamed on a fall down the stairs.

Neglect can be indicated by a child who is chronically dirty or dressed inappropriately for the weather, a child who is frequently hungry or sleepy and reports being unable to eat or sleep regularly at home, a child who does not attend school regularly or one who has not been enrolled in school, a child who remains untreated or is treated inappropriately for a medical problem or a child who describes being left alone and unable to care for himself.


A good indicator of endangerment is a description by a child of events that may place him in danger such as being involved in a physical, domestic fight between adults in the home, seeing illegal drugs being used or sold or having access to loaded guns kept in the home.

Why should I report child abuse? 


The most important reason to report child abuse is to protect the child from further abuse. Children have few resources for changing the circumstances of their lives and children who are being hurt by their caretakers rely on the intervention of others to protect them. Reporting abuse is also a way to ensure that parents who need help but are not able to ask for it are offered parenting resources.

I'm not sure if the situation is serious enough to report. 

Describe the situation to child protection or the police. Remember that often the most serious abuse occurs in private and away from anyone but the children involved. What you have seen or heard may be only the tip of the iceberg.

As a parent, what can I do to prevent child abuse? 

- Practice disciplining your children in a calm, thoughtful way. Give yourself time to cool off rather than punishing in anger. Show your children ways that conflicts can be resolved with words rather than hitting or hurting.
- Talk with your children everyday and listen carefully to what they say about their lives. Be alert to changes in their behavior or emotions and talk calmly with them if you are concerned.
- Teach your children that their bodies are their own and that they can say no to touches that feel bad or confusing. Talk with them about privacy to help them learn good boundaries and reassure them that it is ok to say no to things that violate their privacy – even if they are saying no to an adult.
- Teach your children to tell you if they are approached, talked to or touched in a way that hurts, scares or confuses them. Reassure them that you will not be angry with them, but want to help them stay safe.
- Help your children think about what they would do if something confusing or scary happened to them. Talk about different scenarios or play the "what if" game. This will help them identify ways to help themselves be safe and to think about the adults they can turn to for help in different places such as school, the park, the library, and church.

Where can I learn more about child abuse? 

If you would like more information about recognizing and reporting child abuse, please call the San Jose Police Department, Family Violence Unit at (408) 277-3700 between the hours of 8:00 am and 5:00 p.m. The receptionist will connect you with a child abuse investigator.

For more information on the web, here are links to several sites with resources for parents, teachers and anyone interested in preventing child abuse.

- www.safestate.org
- Local Child Abuse Council 1-800-4-A-CHILD
- Center for Child Protection 1-408-885-6460



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▷ Court of Appeal, Second District, Division 7, California.
Alec ALEJO, a Minor, etc., Plaintiff and Appellant,
v.
CITY OF ALHAMBRA, Defendant and Respondent.
No. B130088.

Oct. 27, 1999.
Review Denied Feb. 23, 2000.

Child sued city and police officer for negligence in failing to investigate father's reports that child was being physically abused by mother's live-in boyfriend. The Superior Court, Los Angeles County, No. GC 021238, Thomas William Stoever, J., sustained city's demurrer without leave to amend and dismissed city from action. Child appealed. The Court of Appeal, Johnson, J., held that: (1) police officer has mandatory statutory duty to investigate accounts of child abuse and to report suspected abuse if objectively reasonable person would suspect abuse; (2) allegations in complaint supported claim of negligence per se; (3) whether officer's negligence in not investigating father's reports were proximate cause of child's severe injuries six weeks later was question of fact that could not be resolved at pleading stage; and (4) complaint did not give rise to claim of sovereign immunity.

Reversed and remanded.

West Headnotes

[1] Appeal and Error 30 ↪917(1)

30 Appeal and Error
30XVI Review
30XVI(G) Presumptions
30k915 Pleading
30k917 Demurrers
30k917(1) k. In General. Most Cited

Cases

On appeal of judgment sustaining a demurrer without leave to amend, Court of Appeal accepts as true the properly pleaded factual allegations of the complaint.

[2] Negligence 272 ↪282

272 Negligence
272VI Vulnerable and Endangered Persons; Rescues

272k282 k. Duty in General. Most Cited
Cases

As a general rule, one has no duty to come to the aid of another.

[3] Municipal Corporations 268 ↪740(1)

268 Municipal Corporations
268XII Torts
268XII(A) Exercise of Governmental and Corporate Powers in General
268k740 Injuries by Mobs or Other Wrongdoers

268k740(1) k. In General. Most Cited
Cases

There is generally no duty owed by police to individual members of the general public because a law enforcement officer's duty to protect the citizenry is a duty owed to the public as a whole; therefore, absent a special relationship or a statute creating a special duty, the police may not be held liable for their failure to provide protection.

[4] Appeal and Error 30 ↪863

30 Appeal and Error
30XVI Review
30XVI(A) Scope, Standards, and Extent, in General

30k862 Extent of Review Dependent on Nature of Decision Appealed from

30k863 k. In General. Most Cited Cases
When a demurrer is sustained without leave to amend, the question on appeal is whether the complaint states a cause of action under any legal theory; therefore, it is immaterial whether plaintiff relied in complaint on a correct theory.

[5] Municipal Corporations 268 ↪747(3)

268 Municipal Corporations

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268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official Acts

268k747(3) k. Police and Fire. Most Cited Cases

Statute governing responsibilities of employees of child protective agencies with respect to reporting child abuse imposes two mandatory duties on a police officer who receives an account of child abuse: a duty to investigate and a duty to report suspected abuse when an objectively reasonable person in the same situation would suspect abuse. West's Ann.Cal.Penal Code § 11166(a).

[6] Municipal Corporations 268 ↪747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official Acts

268k747(3) k. Police and Fire. Most Cited Cases

A physician's duty under former statute to report child abuse when it "appears" to her a child has been subjected to abuse and a police officer's statutory duty to report when she "reasonably suspects" a child has been subjected to abuse are not rationally distinguishable for purposes of imposing liability on city under the negligence per se doctrine. West's Ann.Cal.Penal Code § 11166(a); West's Ann.Cal.Gov.Code § 815.6; West's Ann.Cal.Evid.Code § 669; West's Ann.Cal.Penal Code § 11161.5 (Repealed).

[7] Municipal Corporations 268 ↪747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official Acts

268k747(3) k. Police and Fire. Most Cited Cases

Imposition of mandatory duty on police officer to investigate allegations of child abuse does not depend on a finding, as a matter of law, that breach of that

duty was the cause of child's injuries. West's Ann.Cal.Penal Code § 11166(a).

[8] Municipal Corporations 268 ↪747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official Acts

268k747(3) k. Police and Fire. Most Cited Cases

Claim against city of negligence per se was supported by allegations that father reported to police officer that he had recently seen three-year-old child with black eye and that neighbor had told him of another beating of child by mother's live-in boyfriend, that officer failed to investigate possible abuse or prepare any reports in connection with it, and that six weeks later child received severe beating by mother's boyfriend that left him totally and permanently disabled. West's Ann.Cal.Penal Code § 11166(a); West's Ann.Cal.Gov.Code § 815.6; West's Ann.Cal.Evid.Code § 669.

[9] Municipal Corporations 268 ↪742(6)

268 Municipal Corporations

268XII Torts

268XII(A) Exercise of Governmental and Corporate Powers in General

268k742 Actions

268k742(6) k. Trial, Judgment, and Review. Most Cited Cases

Whether police officer's negligence in not investigating father's reports of suspected physical abuse of three-year-child by mother's live-in boyfriend was proximate cause of child's disabling injuries six weeks later from severe beating was question of fact that could not be resolved at pleading stage of child's negligence per se claim against city, but should be determined at trial through expert testimony. West's Ann.Cal.Penal Code § 11166(a); West's Ann.Cal.Gov.Code § 815.6; West's Ann.Cal.Evid.Code § 669.

[10] Negligence 272 ↪1713

272 Negligence

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272XVIII Actions

272XVIII(D) Questions for Jury and Directed Verdicts

272k1712 Proximate Cause

272k1713 k. In General. Most Cited

Cases

Although normally the issue of causation is a question of fact and therefore not within the scope of a demurrer to a negligence complaint, the court may properly examine the proximate cause of the alleged injury at the demurrer stage.

[11] Municipal Corporations 268 ↻747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official

Acts

268k747(3) k. Police and Fire. Most

Cited Cases

Police officer and city would not be relieved of liability for injuries sustained by child from mother's live-in boyfriend, on theory that boyfriend's criminal acts were an intervening cause that broke chain of causation between officer's failure to investigate child abuse report and severe beating that child received six weeks later, if boyfriend's future criminal conduct was foreseeable result of child's remaining in his custody. West's Ann.Cal.Penal Code § 11166(a); West's Ann.Cal.Gov.Code § 815.6; West's Ann.Cal.Evid.Code § 669.

[12] Municipal Corporations 268 ↻747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official

Acts

268k747(3) k. Police and Fire. Most

Cited Cases

Investigation by police officers of reported child abuse is not a discretionary act so as to immunize officer or city from liability for negligent investigation; as employees of a child protective agency, police officers have mandatory statutory duty to investigate such reports. West's Ann.Cal.Penal Code § 11166(a); West's Ann.Cal.Gov.Code §§ 815.2(b),

818.2, 820.2, 821.

[13] Municipal Corporations 268 ↻747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official

Acts

268k747(3) k. Police and Fire. Most

Cited Cases

Statutes declaring immunity from damages caused by failure to enforce laws did not immunize police officer or city from liability for officer's failure to investigate report of child abuse, as officer's duty to investigate was mandatory rather than discretionary. West's Ann.Cal.Penal Code § 11166(a); West's Ann.Cal.Gov.Code §§ 818.2, 821.

[14] Municipal Corporations 268 ↻747(3)

268 Municipal Corporations

268XII Torts

268XII(B) Acts or Omissions of Officers or Agents

268k747 Particular Officers and Official

Acts

268k747(3) k. Police and Fire. Most

Cited Cases

Statutes that confer immunity for damages caused by law enforcement failures encompass only discretionary law enforcement activity; they do not bar liability for breach of a mandatory law enforcement duty. West's Ann.Cal.Gov.Code §§ 818.2, 821.

****769 *1182** Ajalat and Ajalat, Gregory M. Ajalat and Stephen P. Ajalat, Burbank, for Plaintiff and Appellant.

***1183** Leland C. Dolley, City Attorney (Alhambra), Brian A. Pierik, Camarillo, and Elizabeth R. Feffer, Los Angeles, for Defendant and Respondent.

JOHNSON, J.

In 1973, Dr. Vincent Fontana wrote a book on child abuse entitled, "Somewhere a Child Is Crying." The complaint in this case asks: "Is anyone listening?" In sustaining ****770** a demurrer to the complaint, the trial court held a city is not liable when its police officers

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fail to investigate and report their reasonable suspicions a child has been the victim of physical abuse and, as a result, the child suffers further abuse. We reverse.

FACTS AND PROCEEDINGS BELOW

[1] For the purposes of this appeal, we accept as true the properly pleaded factual allegations of the complaint. (*Lazar v. Superior Court* (1996) 12 Cal.4th 631, 635, 49 Cal.Rptr.2d 377, 909 P.2d 981.)

Three-year old Alec Alejo resided with his mother and her live-in boyfriend, Mike Gonzalez, in the City of Alhambra. On May 18, 1997, Hector Alejo, Alec's father, became concerned when he observed Alec had severe facial bruising to and surrounding the area of his left eye. He questioned both Alec and his mother, Jamie Clark, about the injury but their explanations did not dispel his concern.

Three days later, on the evening of May 21, 1997, Hector received a telephone call from a neighbor and close friend of Clark's, who advised Hector that Clark and Gonzalez were using drugs and Gonzalez was physically beating and abusing Alec. The caller also inquired whether Hector had seen Alec's recent "black eye".

Immediately after receiving the telephone call, Hector went to the Alhambra police department and reported to "Officer Doe" ^{FN1} his knowledge about the physical and mental abuse being inflicted upon Alec by Gonzalez. He informed the officer of Alec's black eye and the fact he had just received a telephone call alerting him Clark and Gonzalez were using drugs and Gonzalez was in the process of physically abusing Alec. Hector, concerned for his child's safety, described the location where Alec and his mother lived, offered to take the police there and requested the police immediately go and investigate the matter.

^{FN1}. The complaint alleges plaintiff is presently unaware of the true name of this officer.

Despite receiving this report of abuse from Alec's father, the Alhambra police department and Officer Doe, without reasonable care, diligence, *1184 justification or regard for Alec's safety, failed to conduct

any investigation into whether Alec was being abused and failed to prepare an internal report or cross-report to other governmental agencies and offices concerning Alec's possible abuse.

Six weeks after Hector reported Alec's abuse to the Alhambra police, Alec was subjected to a severe, violent and unlawful beating by Gonzalez. This beating caused Alec serious physical injuries as well as great mental, emotional and physical suffering. As a result of this abuse, Alec has suffered total and permanent disability.

Alec brought this action against the City of Alhambra, its employee Officer Doe, and Mike Gonzalez. The complaint alleges negligence on the part of the city and Officer Doe in failing to investigate or report a reasonable suspicion of child abuse as mandated by Penal Code section 11164, et. seq. ^{FN2}

^{FN2}. All future statutory references are to the Penal Code unless otherwise specified.

The city demurred on the grounds its police department and officers had no special duty to protect Alec from child abuse, the reporting and investigation of child abuse by law enforcement is a discretionary function, its police department and officers are immune from liability for their failure to act and, in any event, their failure to act was not the cause of Alec's injuries. The trial court sustained the city's demurrer without leave to amend and entered judgment dismissing the city from the action. Alec filed a timely appeal.

DISCUSSION

I. THE COMPLAINT STATES A CAUSE OF ACTION FOR NEGLIGENCE UNDER THE THEORY OF NEGLIGENCE PER SE.

For the reasons explained below, we hold Alec's complaint states a cause of **771 action under the doctrine of negligence per se based on the Child Abuse and Neglect Reporting Act (Art. 2.5, §§ 11164-11174.3).

To state a cause of action under the negligence per se doctrine, the plaintiff must plead four elements: (1) the defendant violated a statute or regulation, (2) the

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violation caused the plaintiff's injury, (3) the injury resulted from the kind of occurrence the statute or regulation was designed to prevent, and (4) the plaintiff was a member of the class of persons the *1185 statute or regulation was intended to protect. (Evid.Code, § 669.)^{FN3} Only the first two elements of the negligence per se doctrine are at issue in this appeal. It is beyond dispute the mental and physical abuse 3-year-old Alec allegedly suffered at the hands of Gonzalez was exactly the type of injury the California Legislature intended to prevent in enacting the Child Abuse and Neglect Reporting Act. (§ 11164, subd. (b).)^{FN4}

FN3. Government Code section 815.6 applies the negligence per se doctrine to public entities. It provides: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty." Courts have recognized that as a practical matter the standard for determining whether a mandatory duty exists is "virtually identical" to the test for an implied statutory duty of care under Evidence Code section 669. (*Tirpak v. Los Angeles Unified School Dist.* (1986) 187 Cal.App.3d 639, 646, 232 Cal.Rptr. 61, cited with approval in *Hoffv. Vacaville Unified School Dist.* (1998) 19 Cal.4th 925, 939, fn. 7, 80 Cal.Rptr.2d 811, 968 P.2d 522.)

FN4. Section 11164, subdivision (b) states: "The intent and purpose of this [act] is to protect children from abuse." Furthermore, authorities point out the most serious injuries and greatest numbers of deaths from child abuse occur to children 3 years of age and under. (Comment, Reporting Child Abuse: When Moral Obligations Fail (1983) 15 Pacific L.J. 189, 190, fn. 12.)

A. Officer Doe Had A Duty Under Section 11166 To Investigate And Report A Reasonable Suspicion Of Child Abuse.

[2][3] We acknowledge, as a general rule one has no

duty to come to the aid of another. (*Williams v. State of California* (1983) 34 Cal.3d 18, 23, 192 Cal.Rptr. 233, 664 P.2d 137) Accordingly, there is no duty owed by police to individual members of the general public because "a law enforcement officer's duty to protect the citizenry is a general duty owed to the public as a whole." (*Von Batsch v. American Dist. Telegraph Co.* (1985) 175 Cal.App.3d 1111, 1121, 222 Cal.Rptr. 239.) Therefore, absent a special relationship or a statute creating a special duty, the police may not be held liable for their failure to provide protection. (*Id.* at p. 1122, 222 Cal.Rptr. 239.)

[4] Section 11166, subdivision (a) creates such a duty.^{FN5} This statute provides in relevant part any "employee of a child protective agency ... who has knowledge of or observes a child, in his or her professional capacity, or within the scope of his or her employment, whom he or she knows or reasonably suspects has been the victim of child abuse shall report the *1186 known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident." (Emphasis added.) "Reasonable suspicion" for purposes of the statute means "it **772 is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training or experience, to suspect child abuse." (*Ibid.*) A police department is a "child protective agency" for purposes of this statute. (§ 11165.9.)

FN5. When a demurrer is sustained without leave to amend, the question on appeal is whether the complaint states a cause of action under any legal theory. (*Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d 94, 103, 101 Cal.Rptr. 745, 496 P.2d 817.) For this reason, it is immaterial Alec did not specifically rely on subdivision (a) of section 11166 in his second amended complaint. Furthermore, both sides have argued the applicability of subdivision (a) in their appellate briefs so there is no bar to our considering its provisions in reversing the trial court's judgment. (Gov.Code, § 68081.)

[5] As we read section 11166, subdivision (a), it imposes two mandatory duties on a police officer who

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receives an account of child abuse.

First, the statute imposes a duty to investigate. Although section 11166, subdivision (a) does not use the term "investigate," it clearly envisions some investigation in order for an officer to determine whether there is reasonable suspicion to support the child abuse allegation and to trigger a report to the county welfare department and the district attorney under section 11166, subdivision (i) and to the Department of Justice under section 11169, subdivision (a). The latter statute provides in relevant part: "A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded.... A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in Section 11165.12." An "unfounded" report is one "which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse, as defined in Section 11165.6." (§ 11165.12, subd. (a).) "Child abuse" is defined in section 11165.6 as "a physical injury which is inflicted by other than accidental means on a child by another person."

The statute also imposes a duty to take further action when an objectively reasonable person in the same situation would suspect child abuse. Further action would entail reporting the "known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone" and preparing and sending "a written report thereof within 36 hours of receiving the information concerning the incident." (§ 11166, subd. (a).)

Contrary to the city's position, the duty to investigate and report child abuse is mandatory under section 11166, subdivision (a) if a reasonable person in Officer Doe's position would have suspected such abuse. The *1187 language of the statute, prior cases and public policy all support this conclusion.

The statute itself states an employee of a child protective agency (e.g., a police officer) "who has knowledge of [a child] whom he or she knows or reasonably suspects has been the victim of child abuse, shall report the known or suspected instance of child

abuse[.]" (Emphasis added.) In contrast to the imperative language used in subdivision (a), the Legislature provided in subdivision (f): "Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency." (Emphasis added.) Comparing the obligatory language of subdivision (a) addressed to police officers and the permissive language of subdivision (f) addressed to the general public leads us to conclude the Legislature intended to impose a mandatory duty on police officers to investigate and report known or reasonably suspected child abuse.

There are sound public policy reasons for the Legislature's imposition of a mandatory reporting duty on police officers. Police officers, unlike ordinary citizens, are specially trained in the detection, investigation and response to cases of suspected child abuse. (§ 13517.) Moreover, police officers are in a unique position to discover **773 cases of child abuse because the natural reaction of a relative, friend or neighbor who has observed signs of abuse is to call the police, just as Hector did here. The Child Abuse and Neglect Reporting Act contains an elaborate system for reporting and cross-reporting known and suspected cases of child abuse for the purpose of "protect [ing] children from abuse." (§ 11164, subd. (a).) This Legislative scheme is summarized in *Planned Parenthood Affiliates v. Van de Kamp* (1986) 181 Cal.App.3d 245, 257-260, 226 Cal.Rptr. 361 and we will not repeat it here. Suffice it to say, the whole system depends on professionals such as doctors, nurses, school personnel and peace officers who initially receive reports of child abuse to investigate and, where warranted, report those accounts to the appropriate agencies. If these professionals, including the police, simply ignore those reports, the Legislature's entire scheme of child abuse prevention is thwarted.

Case law too supports the conclusion the police have a mandatory duty to investigate and report accounts of child abuse.

In *Landeros v. Flood* (1976) 17 Cal.3d 399, 131 Cal.Rptr. 69, 551 P.2d 389, our Supreme Court recognized civil liability under former section 11161.5 for a physician's failure to make a required report of *1188 child abuse. The plaintiff, an 11-month-old

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girl, was taken by her mother to the defendant doctor for treatment of a leg fracture. The complaint alleged the fracture and other injuries from which the child was suffering at the time gave the appearance of having been intentionally inflicted. The mother had no explanation for the injuries. Defendant did not report the child's injuries to the local police or welfare department. After the defendant treated and released the child she suffered further beatings at the hands of her mother and the mother's common law husband. The complaint alleged the defendant doctor was liable for the child's subsequent injuries predicated on common law negligence for failure to diagnose and treat plaintiff's battered child syndrome and negligence per se for failure to comply with the child abuse reporting requirements of former section 11161.5. Section 11161.5 declared that when it "appears to the physician" a minor has been the victim of child abuse the physician "shall report such fact by telephone and in writing, within 36 hours ..." to the local police or other appropriate agencies. (Stats.1975, ch. 226, § 1, p. 608; *Landeros, supra*, 17 Cal.3d at p. 407, 131 Cal.Rptr. 69, 551 P.2d 389; emphasis added.)^{FN6} The court held allegations the defendant failed to make the report required by the statute supported an action for personal injury under the doctrine of negligence per se. (*Id.* at p. 413, 131 Cal.Rptr. 69, 551 P.2d 389.)

FN6. Section 11161.5 was subsequently repealed. A physician's reporting duty is now imposed by section 11166, subdivision (a) along with that of a police officer and other professionals.

[6] In our view, a physician's statutory duty to report when it "appears" to her a child has been subjected to abuse and a police officer's statutory duty to report when she "reasonably suspects" a child has been subjected to abuse are not rationally distinguishable for purposes of imposing liability under the negligence per se doctrine.

Our view is supported by the decision in *Planned Parenthood Affiliates v. Van de Kamp* (1986) 181 Cal.App.3d 245, 258-259, 226 Cal.Rptr. 361, in which the court held section 11166, subdivision (a) "imposes a mandatory reporting requirement on individuals whose professions bring them into contact with children" and the Legislature "intends an investigation be conducted into every report received."

The city argues the burden on police departments would be intolerable if they were required to investigate and report every account of child abuse they receive, no matter how frivolous. But this is not what the child abuse reporting law requires.**774 An officer is only required to investigate and report an account of child abuse when "it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training or experience, to suspect child abuse." (§ 11166, subd. (a).) An *1189 officer is specifically directed not to pass on an "unfounded report," i.e., one which he or she determines to be false, inherently improbable, to involve only an accidental injury, or not to constitute child abuse as defined by statute. (§ 11165.12, subd. (a).) Given these statutory guidelines and the training in child abuse investigation afforded police officers (§ 13517), it is not unfair or against public policy to impose a mandatory duty on officers to comply with the investigation and reporting requirements of section 11166, subdivision (a).

[7][8] The city also argues before we can hold its officer owed a mandatory duty to Alec we must be able to say, as a matter of law, the breach of that duty was the proximate cause of Alec's injuries, citing (*Novoa v. County of Ventura* (1982) 133 Cal.App.3d 137, 144-145, 183 Cal.Rptr. 736.) We reject this argument. Causation is a question of fact, see discussion in Subpart B *infra*, and nothing in *Novoa* changes that well established rule. What the court said in *Novoa* was that if the mandatory duty at issue is not designed to protect against the kind of injury alleged in the complaint then the injury "is not proximately caused by the failure to perform the mandatory duty." (*Id.* at p. 145, 183 Cal.Rptr. 736, citation omitted.) Here, it is indisputable that the mandatory duty to investigate and report accounts of child abuse was intended to "protect children from child abuse." (§ 11164, subd. (a).) The complaint in the case before us alleges that despite Hector's account of Alec's abuse, Officer Doe performed no investigation and made no report and, as a result, Alec suffered further abuse. Therefore, the necessary linkage between the mandatory duty and the injury is established for pleading purposes.

The failure to investigate was clearly a breach of duty. Whether a reasonably prudent person receiving Hector's information would suspect child abuse and

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(Cite as: 75 Cal.App.4th 1180, 89 Cal.Rptr.2d 768)

make a report is a question of fact to be determined at trial. We cannot say from the facts pled in the complaint that as a matter of law no reasonable person could form a suspicion of child abuse. In *People v. Green* (1997) 51 Cal.App.4th 1433, 59 Cal.Rptr.2d 913, for example, the police received an anonymous report the defendant was hitting two children in the front seat of a vehicle. Although the defendant was ultimately convicted on other charges, the Court of Appeal noted in its opinion: "Given the information possessed by the police, the officers had a duty to investigate the report of child abuse" citing sections 11164, et seq. (*Id.* at p. 1438, 59 Cal.Rptr.2d 913.) The facts indicating child abuse are even stronger in the present case. Here, Alec's father reported he recently had seen Alec with a black eye, which neither Alec nor his mother could satisfactorily explain. He also related the fact that, according to Alec's neighbor, Alec had just received another beating from Gonzalez and this same neighbor had also observed Alec's *1190 earlier black eye. The fact the neighbor had seen signs of Alec's earlier abuse lent credibility to the neighbor's report of current abuse.

For these reasons, we conclude the complaint adequately pled the violation of a statutory duty.

B. Whether Officer Doe's Negligence Was A Cause Of Alec's Injuries Is A Question Of Fact Which Cannot Be Resolved At The Pleading Stage.

[9][10] In order to recover under any negligence theory, the plaintiff must be able to allege and ultimately prove the defendant's breach of duty proximately caused the injury. Although normally the issue of causation is a question of fact and **775 therefore not within the scope of a demurrer, the court may properly examine the proximate cause of the alleged injury at the demurrer stage. (*Antique Arts Corp. v. City of Torrance* (1974) 39 Cal.App.3d 588, 590-591, 114 Cal.Rptr. 332.) The city contends the complaint in this case shows on its face the proximate cause of Alec's injury was not Officer Doe's failure to investigate or report child abuse but rather the criminal acts of Gonzalez who administered the beatings. The city further contends as a matter of law the connection between Officer Doe's alleged failure to investigate or report the abuse of Alec and Alec's subsequent injuries is too conjectural or speculative to support a cause of action for negligence. We disagree with both of these arguments.

[11] We reject the city's contention Gonzalez's abuse of Alec can properly be considered an intervening or superseding cause which broke the chain of causation with respect to Alec's injuries.

In *Landeros, supra*, the court found subsequent beatings by plaintiff's mother and her common-law husband did not necessarily relieve a doctor from liability for his negligent failure to diagnose, treat and report to the proper authorities plaintiff's battered child syndrome. (17 Cal.3d at p. 411, 131 Cal.Rptr. 69, 551 P.2d 389.) Although the subsequent beatings were the immediate cause of the plaintiff's injuries, the court held an intervening act "does not amount to a 'superseding cause' relieving the negligent defendant of liability if [the intervening act] was reasonably foreseeable." (*Ibid.*) Quoting from section 449 of the Restatement Second of Torts the court stated: " 'If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act whether innocent, negligent, intentionally tortious, or criminal does not prevent the actor from being liable for harm caused thereby.' " (*Ibid.*, emphasis added.)

Applying these rules to the case before it, the *Landeros* court noted child abuse is generally not an isolated, atypical event "but part of an environmental mosaic of repeated beatings and abuse that will not only continue but *1191 will become more severe unless there is appropriate medicolegal intervention." (*Id.* at p. 412, 131 Cal.Rptr. 69, 551 P.2d 389, fn. omitted.) Therefore, the court concluded, it was error for the trial court to rule as a matter of law defendant's negligence was not the proximate cause of plaintiff's injuries. Rather, "[p]laintiff is entitled to prove by expert testimony that defendants should reasonably have foreseen that her caretakers were likely to resume their physical abuse and inflict further injuries on her if she were returned directly to their custody." (*Ibid.*, fn. omitted.)

In the present case, the complaint alleges Officer Doe negligently failed to investigate and take further action after receiving a credible report of child abuse from the child's father. Assuming Gonzalez's future criminal conduct was the foreseeable result of Alec remaining in his custody-a question of fact for the jury-Officer Doe and the City of Alhambra are not relieved of liability by a superseding cause of injury.

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We now turn to the city's contention Alec cannot establish that but for Officer Doe's failure to investigate or report past instances of child abuse future abuse would have been prevented. The city asserts whether an investigation or report would have prevented future abuse of Alec by Gonzalez is purely speculative because it is unknowable what child welfare workers would have done with Officer Doe's report had it been made.

The city relies on *Antique Arts Corp. v. City of Torrance, supra*, a case in which the court found no governmental liability for a police dispatcher's 10-minute delay in broadcasting a robbery-in-progress call. The court observed: "Whether the immediate presence of police on the scene of a robbery could have prevented it and/or **776 resulted in the recovery of the loot after the consummation of a robbery, or whether immediate police response to a concurrent transmission of the alert could have prevented the robbery or recovered the loot is a subject replete with speculation and conjecture." (39 Cal.App.3d at pp. 590-591, 114 Cal.Rptr. 332.) Therefore, "the presence or absence of police before, during or after the robbery has in our opinion no such causal or proximate connection with a loss resulting from a consummated robbery as to result in government liability." (*Id.*, at p. 591, 114 Cal.Rptr. 332.)

The city's reliance on *Antique Arts* is misplaced. Unlike police officers responding to a robbery report, welfare workers responding to a child abuse report are governed by statutory standards. Welfare & Institutions Code section 16501, subdivision (f) provides when a county welfare department receives a report of child abuse under section 11166 it "shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days." In Alec's case, the subsequent beating took place six *1192 weeks after his father's report of child abuse. Thus, the county welfare department would have had ample time to respond and provide Alec with protection from further abuse had Officer Doe reported the facts related by Alec's father.

An additional factor weighs in Alec's favor on the causation issue. As previously mentioned, the Legislature's declared intent and purpose in enacting the Child Abuse and Neglect Reporting Act was "to protect children from abuse." (§ 11164, subd. (a).) Obvi-

ously the Legislature believed compliance with the investigating and reporting requirements of the Act would be a substantial factor in preventing child abuse. Conversely, the failure to investigate or report occurrences of child abuse greatly enhances the chances of repeated and more severe abuse, as discussed in (*Landeros, supra*, 17 Cal.3d at p. 412, 131 Cal.Rptr. 69, 551 P.2d 389.)

The Supreme Court, in *Landeros*, held the plaintiff was entitled to prove by way of expert testimony a reasonably prudent physician would have reported plaintiff's injuries to the proper authorities. (17 Cal.3d at p. 410, 131 Cal.Rptr. 69, 551 P.2d 389.) Taking this holding the next logical step, we believe Alec is entitled to prove by way of expert testimony a reasonably prudent social worker would have responded to the alleged facts of his abuse in a way which would have prevented his subsequent injuries. Considering the allegations set forth in the complaint, such as the physical abuse suffered by Alec, his black eye and the drug use by his mother and Gonzalez, it is not difficult to believe the county welfare department would have taken affirmative steps to protect Alec. Whether or not the department would have done so is not a matter of speculation but a question of fact to be determined at trial through expert testimony.

For these reasons, we cannot say at the pleading stage of this case Alec is unable to establish future abuse would have been prevented by a proper investigation and report on the part of the Alhambra police department and Officer Doe.

II. NEITHER THE CITY NOR OFFICER DOE IS IMMUNE FROM LIABILITY.

Despite the mandatory language of section 11166, subdivision (a), the city contends it is immune from liability because as a matter of public policy the investigation of child abuse should be treated as a discretionary *1193 act and because a city cannot be held liable for its employees' failure to enforce a law.^{FN7} We find no merit in either of these arguments.

FN7. Government Code section 815.2(b) states: "Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the em-

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ployee is immune from liability.”

Government Code section 820.2 states: “except as otherwise provided by statute a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused.”

Government Code Section 818.2 provides: “A public entity is not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law.”

Government Code section 821 provides: “A public employee is not liable for an injury caused by his adoption of or failure to adopt an enactment or by his failure to enforce an enactment.”

**777 In arguing investigation of child abuse should be treated as a discretionary act as a matter of public policy, the city relies on (*Alicia T. v. County of Los Angeles* (1990) 222 Cal.App.3d 869, 271 Cal.Rptr. 513 (*Alicia T.*)). *Alicia T.*, however, is clearly distinguishable from the present case.

Alicia T. was an action against a county and two of its social workers by the parents of a child whom defendants removed from the home due to suspected child abuse reported by a hospital. The case did not involve any claim of liability under the Child Abuse and Neglect Reporting Act. Indeed, the plaintiffs conceded “the personnel at [the hospital] properly reported the suspicion of abuse to the sheriff’s department.” (222 Cal.App.3d at p. 877, 271 Cal.Rptr. 513.) Liability in *Alicia T.* was sought under 42 U.S.C. Section 1983 on the theory the county removed Alicia from her home and prevented her return without sufficient probable cause. (*Id.* at p. 880, 271 Cal.Rptr. 513.) In holding social workers enjoy absolute immunity from liability for removing a child from the parents’ home, the court noted the important societal function played by social workers in this context. Social workers, the court explained, must make quick decisions on incomplete information as to whether to remove a child from parental custody. Therefore, granting social workers anything less than absolute immunity would “negate the purpose of

child protective services by postponing prevention of further abuse to avoid liability.’ ” (*Id.* at p. 881, 271 Cal.Rptr. 513, quoting from *Jenkins v. County of Orange* (1989) 212 Cal.App.3d 278, 287, 260 Cal.Rptr. 645.)

[12] In our case, statutory liability is pled under section 11166, subdivision (a) which establishes a mandatory duty on employees of child protective agencies; including police officers, to investigate and take further action when warranted. Unlike the discretion afforded the social workers who responded to the sheriff’s report of suspected abuse in *Alicia T.*, there is no discretion involved in initiating the investigating and reporting process itself. (See discussion in Part I, *supra.*) Officer Doe had a mandatory duty to investigate *1194 and then report if it was objectively reasonable for him to suspect child abuse.

[13][14] The city next argues Government Code sections 818.2 and 821 relieve it and Officer Doe, respectively, of any liability for the failure to enforce a law. However, “[t]he statutes declaring immunity for damages caused by law enforcement failures encompass only discretionary law enforcement activity [citation].” (*Roseville Community Hosp. v. State of California* (1977) 74 Cal.App.3d 583, 587, 141 Cal.Rptr. 593, and see cases cited therein.) The immunity statutes do not bar liability for breach of a mandatory law enforcement duty. (*Morris v. County of Marin* (1977) 18 Cal.3d 901, 916-917, 136 Cal.Rptr. 251, 559 P.2d 606.) As explained above, this case does not involve the exercise of discretion on the part of Officer Doe or a failure to enforce the law, but rather a failure to comply with a mandatory duty imposed by law.

We conclude, therefore, the allegations in the complaint do not give rise to a defense of sovereign immunity on the part of the city.

DISPOSITION

The judgment is reversed and the cause remanded for further proceedings consistent**778 with this opinion. Appellant is awarded costs on appeal.

LILLIE, P.J., and WOODS, J., concur.

Cal.App. 2 Dist., 1999.

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(Cite as: 75 Cal.App.4th 1180, 89 Cal.Rptr.2d 768)

Daily Op. Serv. 8676, 1999 Daily Journal D.A.R.
11,011

END OF DOCUMENT

State of California
Office of Administrative Law

In re:
Department of Justice

NOTICE OF APPROVAL OF REGULATORY
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 11, California Code of Regulations

OAL File No. 2009-1118-01 S

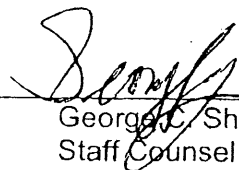
Amend sections: 900, 901, 902, 903, 904,
905, 906

Repeal sections: 907, 908, 909, 910, 911

This regulatory action amends provisions requiring local agencies to report child abuse and neglect to the Child Abuse Central Index (CACI) in order to provide more clear guidance to local agencies regarding the reporting process.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/5/2010.

Date: 1/5/2010



George C. Shaw
Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Jerry Brown
Copy: Madelyn Childs

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW
REGULAR
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2008-1201-01	REGULATORY ACTION NUMBER 2009-118-015	EMERGENCY NUMBER
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ENDORSED FILED
IN THE OFFICE OF

2010 JAN -5 PM 3:16

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2009 NOV 18 PM 3:09

OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
Department of Justice

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER ()	FAX NUMBER (Optional) ()
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER 08, 1151-2
			PUBLICATION DATE 12-19-2008

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Amendment to Child Abuse Reports Recordkeeping	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
--	--

ENDORSED APPROVED

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTION(S) AFFECTED (List all section number(s) individually)	ADOPT	JAN 05 2010
	AMEND	
	REPEAL	

900, 901, 902, 903, 904, 905, 906, 907, 908, 909, ~~910, 911~~ *per agency request*

Title II
907, 908, 909, 910, 911 *per agency request*

3. TYPE OF FILING

Regular Rulemaking (Gov. Code, § 11346) Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) Emergency (Gov. Code, § 11346.1(b)) Emergency Readopt (Gov. Code, § 11346.1(h)) Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)

Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.

Print Only Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) Other (specify) _____

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)
May 12, 2009 to June 01, 2009 *per agency request*

5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))

Effective 30th day after filing with Secretary of State Effective on filing with Secretary of State Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) _____

7. CONTACT PERSON

Madelyn Childs, DOJA I	TELEPHONE NUMBER (916) 227 3263	FAX NUMBER (Optional) (916) 227 4094	E-MAIL ADDRESS (Optional)
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I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

James H. Childs

TYPED NAME AND TITLE OF SIGNATORY
James H. Childs, Chief Deputy Attorney General

DATE
11/10/09

CALIFORNIA DEPARTMENT OF JUSTICE
DIVISION OF CALIFORNIA JUSTICE INFORMATION SERVICES
CHILD PROTECTION PROGRAM
P.O. BOX 903387
SACRAMENTO, CA 94203-3870

TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 9. REPORT OF CHILD ABUSE
ARTICLE 1. ADMINISTRATION OF THE CHILD ABUSE CENTRAL INDEX

Section 900. Scope

The regulations in this article are enacted pursuant to Penal Code sections 11169 and 11170 and set forth the procedures used by the California Department of Justice (DOJ) to administer the Child Abuse Central Index (CACI). The CACI is created pursuant to the Child Abuse and Neglect Reporting Act (CANRA). (Penal Code section 11164 et seq.)

CANRA requires that instances of suspected child abuse or neglect be investigated by county welfare departments or local law enforcement agencies. When an agency conducting an abuse or neglect investigation determines that the allegations of abuse or severe neglect are not unfounded as defined by CANRA, the agency must submit a report in writing to the DOJ indicating whether the agency's finding is inconclusive or substantiated as these terms are defined by CANRA (Penal Code section 11169(a)). The DOJ is required to prepare a form to be used by the investigating agency to report its finding to the DOJ that allegations of child abuse or severe neglect are not unfounded. The CACI contains the information submitted to the DOJ by the investigating agencies on the Child Abuse or Severe Neglect Indexing Form (BCIA 8583).

The submitting investigating agencies are solely responsible for the accuracy and completeness of the information required on the BCIA 8583. The DOJ is responsible for ensuring that the CACI accurately reflects the information the DOJ receives on the reporting form from the submitting agency. The information in CACI is confidential and shall only be provided to entities authorized to receive it pursuant to Penal Code sections 11167.5, 11170 and 11170.5 or any other provision of law.

These regulations broadly describe how CACI information is collected and disseminated, and include the BCIA 8583 that the investigating county welfare departments and local law enforcement agencies must use to report its finding of substantiated or inconclusive child abuse or severe neglect.

NOTE: Authority cited: Penal Code section 11170(a)(1). Penal Code Reference: Section 11170(a)(1).

Section 901. Form Required for Submitting Report of Suspected Child Abuse or Severe Neglect.

(a) Agencies required to report instances of known or suspected child abuse or severe neglect for inclusion in CACI pursuant to Penal Code 11169 shall make their report of known or suspected abuse or severe neglect on the BCIA 8583. All information on the BCIA 8583 must be fully and accurately completed by the submitting agency.

(b) The following BCIA 8583 shall be used for submitting reports of child abuse or severe neglect to the DOJ:

DEPARTMENT OF JUSTICE (DOJ)

CHILD ABUSE OR SEVERE NEGLECT INDEXING FORM (BCIA 8583)

GUIDELINES FOR USE AND COMPLETION

(For specific legal requirements regarding reporting abuse or severe neglect, refer to California Penal Code sections 11164 through 11174.3.)

REPORTING CHILD ABUSE OR SEVERE NEGLECT TO DOJ

An agency subject to the requirements of Penal Code sections 11165.9 and 11169(a) must report to the DOJ every incident of suspected child abuse or severe neglect for which it conducts an investigation and for which it determines that the allegations of child abuse or severe neglect are not unfounded. The agency must report on the Child Abuse or Severe Neglect Indexing Form (BCIA 8583) indicating the agency's finding of possible child abuse or severe neglect.

Submit the completed BCIA 8583 to the DOJ as soon as possible after completion of the investigation because the information may contribute to the success of another investigation. It is essential that the information on the form be complete, accurate and timely to provide the maximum benefit in protecting children and identifying instances of suspected abuse or severe neglect.

WHAT INCIDENTS MUST BE REPORTED

Abuse of a minor child, i.e., a person under the age of 18 years, involving any one of the below abuse types: (Refer to Penal Code sections 11165.1 through 11165.6 for definitions.)

- Physical injury
- Mental/emotional suffering
- Sexual (abuse, assault and exploitation)
- Severe neglect
- Willful harming/endangerment
- Unlawful corporal punishment/injury
- Death

GENERAL INSTRUCTIONS

- Indicate whether you are submitting an INITIAL REPORT or an AMENDED REPORT by checking the appropriate box at the top of the form.
- All information blocks contained on the BCIA 8583 should be completed by the submitting child protective agency. If information is not available, indicate "UNK" in the applicable field.
- Section B, block 2. The finding that allegations of child abuse or severe neglect are not unfounded is:
SUBSTANTIATED – Defined by Penal Code section 11165.12(b) to mean circumstances where the evidence makes it more likely than not that child abuse or neglect, as defined, occurred.
INCONCLUSIVE – Defined by Penal Code section 11165.12(c) to mean circumstances where child abuse or neglect are determined not to be unfounded, as defined, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined, has occurred.

NOTE: Authority cited: Penal Code section 11170(a)(1). Reference: Penal Code sections 11169(a) and 11170(a)(1).

Section 902. Responsibilities of Agencies Submitting Reporting Form

(a) In order to fully meet its obligations under CANRA, an agency required to report instances of known or suspected child abuse or severe neglect must complete all of the information on the BCIA 8583. Only information from a fully completed BCIA 8583 will be entered into the CACI. Incomplete forms will be returned to the submitting agency and the agency must resubmit a completed form to fulfill its reporting responsibilities under CANRA and Penal Code section 11169(a). Penal Code section 11170(a)(2) provides that the submitting agency is responsible for the accuracy and completeness of the report required by CANRA and states that the DOJ is only responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency. Accordingly, the DOJ presumes that the information provided by the submitting agency on the BCIA 8583 is accurate. The DOJ does not conduct an investigation to verify the accuracy of the information submitted nor does it investigate the quality or accuracy of the abuse or severe neglect investigation conducted by the submitting agency.

(b) A submitting agency must immediately notify the DOJ of any changes to information previously provided on a BCIA 8583 by submitting an amended BCIA 8583. Instances when an amended BCIA 8583 is required includes, but is not limited to, a circumstance where the submitting agency, acting pursuant to a court order or otherwise, changes a prior finding of substantiated or inconclusive abuse or severe neglect to one of unfounded. Conversely, if an original finding of an unfounded allegation of abuse or severe neglect is later reclassified as inconclusive or substantiated, the investigating agency must submit a BCIA 8583 to meet its reporting obligations under CANRA.

(c) A primary purpose of CACI is to permit authorized entities to locate prior reports detailing investigations of known or suspected child abuse or severe neglect. The submitting agency must permanently retain investigative reports for which it has submitted a BCIA 8583, or earlier version thereof, if the investigative report substantiated allegations of abuse or severe neglect unless the agency, acting pursuant to court order or otherwise, determines that the allegations investigated are unfounded. If the investigative report was inconclusive about the existence of child abuse or severe neglect, the report must be retained for ten years unless there is an investigation of subsequent allegations of child abuse or severe neglect against the same child or by the same suspect(s) which determines the allegations are not unfounded. If the investigation of subsequent allegations is inconclusive, the original investigative report and the subsequent investigative report must be retained for ten years after filing the BCIA 8583 for the subsequent instance of abuse or severe neglect with DOJ. When the subsequent investigation determines that the subsequent allegations of abuse or severe neglect are substantiated, all prior remaining investigative reports involving the same victims or suspects must be retained permanently.

(d) If a submitting agency has lost, destroyed or otherwise no longer retains or pursuant to court order has sealed the investigatory report(s) for a prior report that are indexed on CACI, the submitting agency shall immediately notify the DOJ of the loss, destruction sealing, or non-retention of the investigatory report by filing an amended BCIA 8583 indicating that the investigatory report is no longer retained. The DOJ will remove from CACI the names of

individuals identified in the lost, destroyed sealed or no longer retained investigatory report(s) indexed in CACI.

NOTE: Authority cited: Penal Code section 11170(a)(1). Reference: Penal Code sections 11169(a), 11169(c), 11170(a)(1), 11170(a)(2), and 11170(a)(3).

Section 903. Entities Authorized to Access CACI Information May Not Make Determinations Based Solely on the CACI Listing.

A primary purpose of CACI is to permit authorized entities to locate prior reports detailing investigations of known or suspected child abuse or severe neglect. An entity receiving information from CACI is responsible for reviewing the underlying investigative report(s) from the agency submitting the CACI report and making an independent assessment regarding the merits of the investigating agency's finding of substantiated or inconclusive child abuse or severe neglect. Penal Code section 11170(b)(9)(A) provides that an entity receiving CACI information is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, employment, licensing, adoption or placement of a child. An entity receiving CACI information shall not act solely upon CACI information or the fact that an individual is listed on CACI to grant or deny any benefit or right.

NOTE: Authority cited: Penal Code section 11170(a)(1), 11170(b)(9)(A), and 11170(e)(2). Reference: Penal Code 11167.5, 11169(a), 11170(b)(9)(A), 11170(c) and 11170(e)(2).

Section 904. DOJ Notification When a Submitting Agency Provides Names Identified in Existing CACI Entries

(a) When the DOJ receives a completed BCIA 8583 identifying the name of a suspect or victim that results in a possible match with names contained in the CACI, the DOJ will notify the submitting agency in writing of the prior report in CACI which has the same possible suspect or victim match. The notification will include the name of the prior submitting agency, the submitting agency's report number for the prior report, the date of the report and the determination made by that agency as to whether the allegation of abuse or severe neglect was inconclusive or substantiated. The DOJ will also provide notification and the above information to prosecutors who request notification of subsequent CACI entries regarding victims or suspects identified in prior investigative reports entered in CACI.

(b) If a new report contains a suspect match with a prior report of inconclusive abuse or severe neglect, the DOJ will notify in writing the agency submitting the prior report that it must retain its investigatory file(s) for the inconclusive finding of abuse or severe neglect for at least ten (10) years from the date the new report is entered into CACI.

(c) The notifications set forth in subdivisions (a) and (b) will be made even if the agency submitting the new report is the same agency that submitted the prior report.

NOTE: Authority cited: Penal Code section 11170(a)(1). Reference: Penal Code-sections 11169(c), 11170(b)(1)-(10), 11170(c), 11170(d), and 11170(e).

Section 905. Releasing CACI Information in Response to Inquiries From Authorized Entities.

The information contained in CACI is confidential and will only be disclosed to those individuals or entities authorized by law to receive it, including but not limited to:

(a) An agency conducting an investigation of child abuse or severe neglect, or a district attorney making a request, will be provided CACI information pertaining to the specific individual(s) being investigated. An agency conducting an ongoing investigation of known or suspected child abuse or severe neglect may request, and shall be provided, CACI information regarding prior investigations by the same or other agencies before completing its current ongoing investigation and submitting the BCIA 8583 required for its current ongoing investigation. Requests must be submitted on a Facsimile Inquiry For Child Abuse Central Index (CACI) Check BCIA 4084 (Rev. 3/09) form. Forms can be found on the California Law Enforcement Website (CLEW) or upon request to the DOJ.

(b) Authorized persons or entities making inquiries for purposes such as employment, licensing, adoption or child placement will be provided CACI information pertaining to the suspect only. Information will include the name of the submitting agency, the submitting agency's report number and the date of the report. Requests must be submitted via live scan or on a Facsimile Inquiry For Child Abuse Central Index (CACI) Check BCIA 4084 (Rev.3/09) form. The form is available from the DOJ website or upon request to the DOJ.

NOTE: Authority cited: Penal Code section 11170(a)(1). Reference: Penal Code-sections 11167, 11167.5, 11169, 11170(b)(1)-(10), 11170(c), 11170(d), 11170(e), and 11170.5.

Section 906. Disclosure of CACI Information To Members of the Public

(a) When a notarized Child Abuse Central Index Self Inquiry Request (Rev. 09/09) form satisfying Penal Code section 11170(f)(1) (available from the DOJ website or upon request from the DOJ) is received from a member of the public to determine if he or she is listed in CACI, and the inquiry results in a possible match to a suspect or victim listed in CACI, the DOJ will:

(1) notify the person in writing that he/she is listed in CACI as a suspect or victim and provide the name of the submitting agency, the report number for the submitting agency's investigative file and the date of the report. The DOJ will also notify the person of disseminations of his/her CACI information conducted for both investigative and applicant purposes. The notification will include the date of the dissemination, the agency to which the record was disseminated, and the purpose of the dissemination. The DOJ will automatically provide a copy of the personal information maintained in the CACI relating to the requesting party for his or her examination.

(b) When a notarized written request is received by DOJ (see Penal Code section 11170(g)) from a person listed in the CACI only as a victim of child abuse or neglect who wishes to be removed from CACI, and that person is 18 years of age or older, the DOJ will also:

(1) remove the person's name, address, social security number and date of birth (and any other descriptive information about the person) from the CACI. The DOJ will also notify the person in writing that his/her name and descriptor information have been removed from the CACI.

(c) A person may inspect, review, dispute, amend and correct information contained in CACI as specified in the Information Practices Act of 1977. However, the decision whether to list a person in CACI rests solely with the submitting agency and any challenges regarding placing a person on CACI must be filed with the submitting agency.

NOTE: Authority cited: Penal Code section 11170(a)(1). Reference: Penal Code sections 11170(f) and 11170(g). Civil Code sections 1798.25, 1798.32, 1798.33, 1978.34, and 1978.35.

TO BE TYPED OR PRINTED - PRESS FIRMLY - DO NOT USE FELT PEN

CHILD ABUSE INVESTIGATION REPORT

To be Completed by Investigating Child Protective Agency
Pursuant to Penal Code Section 11169
(SHADED AREAS MUST BE COMPLETED)

R
C
N

A
G
Y

FOR DOJ USE ONLY

A. INVESTIGATING AGENCY	1. INVESTIGATING AGENCY (Enter complete name and check type): <input type="checkbox"/> POLICE <input type="checkbox"/> WELFARE <input type="checkbox"/> SHERIFF <input type="checkbox"/> PROBATION		2. AGENCY REPORT NO./CASE NAME:	
	3. AGENCY ADDRESS: Street City Zip Code		4. AGENCY TELEPHONE: EXT: ()	
	5. NAME OF INVESTIGATING PARTY: TITLE		6. DATE REPORT COMPLETED: MO DA YR	
	7. AGENCY CROSS-REPORTED TO:		8. PERSON CROSS-REPORTED TO:	
	9. DATE CROSS-REPORTED: MO DA YR		10. SUPPLEMENTAL INFORMATION (Attach copy of original report) <input type="checkbox"/> (a) INCONCLUSIVE <input type="checkbox"/> (c) ADDITIONAL INFORMATION <input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)	
	10. ACTION TAKEN (check only one box): <input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse) <input type="checkbox"/> (2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)		11. Active investigation conducted per PC 11169(a)? <input type="checkbox"/> Yes <input type="checkbox"/> No* Victim(s) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* Suspect(s) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* <input type="checkbox"/> No Suspects Witness(es) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* <input type="checkbox"/> No witnesses *Explain in comments field A.12.	
12. COMMENTS:				

B. INCIDENT INFORMATION	1. DATE OF INCIDENT: MO DA YR		2. TIME OF INCIDENT:	3. LOCATION OF INCIDENT:
	4. NAME OF PARTY REPORTING INCIDENT: TITLE:		5. EMPLOYER:	6. TELEPHONE: ()
	7. TYPE OF ABUSE (check one or more): <input type="checkbox"/> (1) PHYSICAL <input type="checkbox"/> (2) MENTAL <input type="checkbox"/> (3) SEXUAL <input type="checkbox"/> (4) SEVERE NEGLECT <input type="checkbox"/> (5) GENERAL NEGLECT			
	8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE <input type="checkbox"/> (1) FAMILY DAY CARE <input type="checkbox"/> (2) CHILD CARE CENTER <input type="checkbox"/> (3) FOSTER FAMILY HOME <input type="checkbox"/> (4) SMALL FAMILY HOME <input type="checkbox"/> (5) GROUP HOME OR INSTITUTION-Enter name and address:			

C. INVOLVED PARTIES	VICTIMS	1. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *	
		ADDRESS: Street City Zip Code		DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO		NATURE OF INJURIES:					
		PRESENT LOCATION OF VICTIM:		TELEPHONE NUMBER:		IS VICTIM DEVELOPMENTALLY DISABLED [4512(a) W&I]? <input type="checkbox"/> YES <input type="checkbox"/> NO					
		2. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *	
		ADDRESS: Street City Zip Code		DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO		NATURE OF INJURIES:					
	PRESENT LOCATION OF VICTIM:		TELEPHONE NUMBER:		IS VICTIM DEVELOPMENTALLY DISABLED [4512(a) W&I]? <input type="checkbox"/> YES <input type="checkbox"/> NO						
	SUSPECTS	1. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *	
		ADDRESS: Street City Zip Code		HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER:		DRIVER'S LICENSE NUMBER:	
		RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER									
		Suspect given written notice per PC 11169(b) <input type="checkbox"/> Yes <input type="checkbox"/> No Date notice given: MO DA YR If notice not given, explain in comments field A.12.									
2. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *			
ADDRESS: Street City Zip Code		HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER:		DRIVER'S LICENSE NUMBER:			
RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER											
Suspect given written notice per PC 11169(b) <input type="checkbox"/> Yes <input type="checkbox"/> No Date notice given: MO DA YR If notice not given, explain in comments field A.12.											
OTHER	1. NAME: Last First Middle		<input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING	DOB	MO	DA	YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *	
	2. NAME: Last First Middle		<input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING	DOB	MO	DA	YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *	

*RACE CODES: W-White, B-Black, H-Hispanic, I-American Indian, F-Filipino, P-Pacific Islander, C-Chinese, J-Japanese, A-Other Asian, Z-Asian Indian, D-Cambodian, G-Guamanian, U-Hawaiian, K-Korean, L-Laotian, S-Samoan, V-Vietnamese, O-Other, X-Unknown
 CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.

AB 2380
Page 1

Date of Hearing: April 13, 2010
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Tom Ammiano, Chair

AB 2380 (Lowenthal) - As Amended: March 24, 2010

SUMMARY : Clarifies that a "reasonable suspicion" that a child has been a victim of child abuse or neglect does not require certainty that a child has been abused, and may be based on credible information from other individuals for the purpose of making a report under the Child Abuse and Neglect Reporting ACT (CANRA).

EXISTING LAW :

- 1) Requires that any mandated reporter who has knowledge of, or observes, a child in his or her professional capacity or within the scope of his or her employment whom he or she knows, or reasonably suspects, has been the victim of child abuse shall report that incident immediately to a specified child protection agency by telephone, and requires a written report be sent within 36 hours. [Penal Code Section 11166(a).]
- 2) Requires that reports of suspected child abuse or neglect shall be made by a mandated reporter to any police or sheriff's department, a county probation department if designated by the county to receive mandated reports, or the county welfare department. (Penal Code Section 11165.9.)
- 3) Defines a "mandated reporter" as specific child-care custodians, health practitioners, law enforcement officers, and other medical and professional persons. (Penal Code Section 11165.7.)
- 4) Provides that the reporting duties under CANRA are individual, no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanctions for making the report. [Penal Code Section 11166(g)(1).]

5)Provides that any mandated reporter who fails to report an instance of known or reasonably suspected child abuse or neglect as required is guilty of a misdemeanor, punishable by up to six months in the county jail; by a fine of \$1,000; or by both imprisonment and fine. [Penal Code Section 11166(b).]

6)Requires specified reporting agencies to forward to the Department of Justice (DOJ) a report of every case of suspected child abuse or neglect which is determined not to be unfounded; and if a previously filed report proves to be unfounded, the DOJ shall be notified in writing and shall not retain that report. [Penal Code Section 11169(a).]

7)Requires at the time a reporting agency forwards a report of suspected child abuse or neglect to the DOJ, the agency notify the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI). [Penal Code Section 11165(b).]

8)Requires the DOJ to maintain an index of all reports of child abuse and neglect submitted by the specified reporting agencies. The index shall be continually updated and shall not contain any reports determined to be unfounded. [Penal Code Section 11170(a)(1).]

9)States that the DOJ shall act only as a repository of the suspected child abuse or neglect reports maintained in CACI, and that the reporting agencies are responsible for the accuracy, completeness, and retention of reports. [Penal Code Section 11170(a)(2).]

10)Requires that information from an inconclusive or unsubstantiated suspected child abuse or neglect report shall be deleted from CACI after 10 years if no subsequent report concerning the suspected child abuser is received within the 0-year period. [Penal Code Section 11170(a)(3).]

FISCAL EFFECT : Unknown

COMMENTS : According to the author, "The Los Angeles City Attorney's office has discovered through their work with the Inter-Agency Council on Child Abuse and Neglect that many mandated reporters are unclear on constitutes 'reasonable suspicion'. Many have reported that they feel they have to wait until they have concrete evidence before they can notify the authorities.

"This lack of clarity has resulted in many mandated reporters failing to properly report their reasonable suspicions of child abuse or neglect. This is particularly evident among medical professionals, where reports are delayed by hours or even days while a specific medical diagnosis is determined, resulting in destruction of crime scene evidence and greater difficult for law enforcement in locating perpetrators."

This bill clarifies that 'reasonable suspicion' does not require certainty that child abuse or neglect has occurred and that it may be based on any information considered credible by the reporter, including statements by others.

REGISTERED SUPPORT / OPPOSITION :

Support

Los Angeles City Attorney

Opposition

None

Analysis Prepared by : Gregory Pagan / PUB. S. / (916)
319-3744