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December 20, 2011

Ms. Nancy Patton
Acting Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Patton:

**LOS ANGELES COUNTY'S COMMENTS
ON REASONABLE REIMBURSEMENT METHODOLOGIES
AS REQUESTED BY THE COMMISSION ON STATE MANDATES**

The County of Los Angeles respectfully submits its comments on reasonable reimbursement methodologies as requested by the Commission on August 23, 2011.

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,

A handwritten signature in black ink that reads "Wendy L. Watanabe".

Wendy L. Watanabe
Auditor-Controller

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Enclosure

Los Angeles County's Comments
On Reasonable Reimbursement Methodologies
As Requested by the Commission on State Mandates

Executive Summary

This commentary is in response to the August 23, 2011 request of the Commission on State Mandates (Commission) to Los Angeles County (County) for guidance in reviewing a proposed 'reasonable reimbursement methodology' (RRM). In concept, an RRM is a tool that is designed to facilitate the development of standardized unit reimbursement rates for eligible claimants. However in practice, Commission staff note a number of implementation issues.

For example, Mr. Drew Bohan, Executive Director of the Commission cites the wide range of unit costs used to develop the County's *Municipal Stormwater* RRM. In particular, he indicates that the Commission adopted a \$6.74 RRM unit rate as a "constitutionally permissible" reimbursement rate even though one claimant had actual costs of \$14.46 and "... would be entitled to less than half of its actual costs". Mr. Bohan then asks:

"At some point is the range of figures used to develop the unit cost so wide that it violates the constitutional requirement that local agencies be reimbursed for their mandate-related costs?"

The County maintains that while RRM surveys may produce a wide range of responses, that is not, in and of itself, a basis for maintaining that the proposed RRM rate is constitutionally prohibited. Further analysis of variations in reported unit costs is required before that conclusion is available. Examples of these analyses from the County's *Municipal Stormwater* RRM are provided.

Mr. Bohan also questions how RRM proponents should satisfy the requirement that they "... consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner". Here, the County demonstrates that it has adhered to its definition of "cost-efficiency" in developing ICAN RRMs. The County contends that implementation of a mandate is cost-efficient if only reasonably necessary activities are performed and allowable costs incurred in the implementation of the mandate.

Finally, the County provides examples from its *Municipal Stormwater* program to illustrate that safeguards are in place to reduce the likelihood that the Commission will adopt inappropriate RRMs.

Municipal Stormwater RRM

Mr. Bohan indicates that the Commission found the County's *Municipal Stormwater* RRM of \$6.74 per transit trash receptacle to be reasonable even considering the wide range of RRM survey responses. Specifically, Mr. Bohan indicates that:

“The Commission recently found in the (Los Angeles County) *Municipal Stormwater* program that the RRM unit cost of \$6.74 was reasonable even though the unit costs used to develop that figure ranged from a low of \$2.02 to a high of \$14.46. The Commission implicitly found that \$6.74 was a constitutionally permissible figure even though one claimant whose figures were used to calculate the RRM figure had actual costs of \$14.46. Under the RRM, that claimant would be entitled to less than half of its actual costs.”

The County agrees that in the case of the RRM for the *Municipal Stormwater* program that \$6.74 was a constitutionally permissible reimbursement figure. Further, the RRM survey respondent, reporting \$14.46 of actual costs, accounted for only 39 out of the 7,219 or one half of one percent of the service units surveyed.¹

It should also be noted that under the current version of the governing RRM statute (Government Code section 17518.5 as amended by Statutes of 2007, Chapter 329, Assembly Bill 1222), no longer includes the requirement found in the initial version of Section 17518.5 that:

“ ... For 50 percent or more of local agency and school district claimants, the amount reimbursed is estimated to fully offset their estimated costs to implement the manner in a cost-efficient manner.”

Now, a valid RRM may be one where some survey respondents receive less than half of their costs and also one where less than fifty percent of all survey respondents do not recover their full costs.

Accordingly, while RRM surveys initially produce a wide range of responses which may appear inequitable, that is not, in and of itself, a basis for maintaining that the proposed RRM rate is constitutionally prohibited. Further analysis of

¹ See Exhibit 2, page 2 for the survey results for all *Municipal Stormwater* RRM survey respondents.

variations in reported unit values is required before that conclusion is available. In the case of the County's *Municipal Stormwater* RRM, further analysis included:

1. State agency review of specific RRM survey respondent's cost components.

For example, this occurred when the State Department of Finance reviewed the County's *Municipal Stormwater* RRM and found that trash receptacle cleaning costs increased more than average from one year to the next. The RRM proponent explained that the survey respondent began paying its contractors under living wage agreement requirements imposed by their jurisdiction the year in question. Of course the respondent had no choice but to comply and increased its contract labor payments appropriately. Therefore, the Commission accepted the cleaning cost increases.

2. Commission assessment of whether only reimbursable RRM activities were surveyed.

For example, On February 4, 2011, Commission staff issued their draft *Municipal Stormwater* RRM analysis and concluded that the County's RRM "... appears to be complete except for two essential pieces of data". The first type of missing data is whether the County included the costs of graffiti removal in its proposed RRM. The County analyzed the matter and found that it did not. Two sworn declarations to this effect are attached. The second type of missing data is the nature of "other" costs in the Bellflower City RRM survey response. It was found that these were not repetitive allowable costs. Accordingly, the per trash pickup RRM was recalculated and dropped from \$6.75 to \$6.74.

3. Interested party, eligible claimant and State Association critiques of the RRM survey.

For example, in the case of the *Municipal Stormwater* RRM survey, the respondent city with the reported cost of \$14.46 had an opportunity to complain that under the proposed \$6.74 RRM it would recover less than half its costs, but did not do so. In addition, the *Municipal Stormwater* RRM was reviewed and endorsed by the California Association of Counties and the League of Cities as providing the constitutionally required level of reimbursements to all eligible claimants.

Conclusion

In conclusion, a wide range of figures used to develop the unit cost may not violate the constitutional requirement that local agencies be reimbursed for their mandate-related costs. Safeguards are in place to reduce the likelihood that the Commission will adopt inappropriate RRM.

Interagency Child Abuse and Neglect (ICAN) RRMs

Mr. Bohan's also questions how RRM proponents are meeting the requirement (found in Government Section 17581.5(c)) that they "... consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner". Here, the County's response to this question cites examples from the County's RRM for the Interagency Child Abuse and Neglect (ICAN) program, currently under development. Mr. Bohan's specific questions are:

"Question 1: How should "cost-efficient" be defined?"

Question 2: What does this section require be cost-efficient? Stated another way, what does a requestor need to show to demonstrate that its proposed RRM unit cost meets the requirement of section 17581(c)?"

Regarding the definition of "cost-efficiency", a definition used in the development of the ICAN RRM is that implementation of a mandate is cost-efficient if only reasonably necessary activities are performed and allowable costs incurred in the implementation of the mandate.

Regarding proof that an RRM unit cost reflects the cost-efficient implementation of a mandate, the RRM proponent should report its examination of variations in costs among local agencies in implementing mandates in a cost-efficient manner as well as similarities in such costs.

The County submitted its proof that its ICAN RRMs reflect the cost-efficient implementation of the ICAN mandate to the Commission on January 21, 2010. The metrics chosen for these RRMs were standard times for performing specific components of the ICAN mandate.

RRMs simplify claiming, source documentation, and auditing of cost versus a cost reimbursement methodology that is very labor intensive that may include such documents as time studies, time sheets, and payroll records.

Developing statewide standard times for performing frequently recurring ICAN duties was found to be the best approach to recovering reimbursable law enforcement and county welfare costs. In coming to this conclusion, County staff met and conferred with other claimants, state and local officials, and law enforcement and social service experts.

Commission staff also assisted in the development of the ICAN time surveys by hosting three informational ICAN prehearing conferences to discuss activities that were 'reasonably necessary', and therefore reimbursable, in implementing ICAN services. These conferences were well attended and included staff from the State Department of Justice [DOJ] who explained ICAN investigation, reporting and other requirements².

Regarding the law enforcement survey, the SB90 Service staff of the California State Association of Counties [CSAC] and the League of California Cities [League] conducted three specialized ICAN conferences for law enforcement. The standard time survey that the League and CSAC used was developed by the Los Angeles County Sheriff department [LASD] staff³.

In addition, key excerpts of child abuse investigation protocols and procedures are provided here to demonstrate the many steps that are reasonably necessary in conducting an 'active investigation'⁴ as specified by DOJ.

Regarding the county welfare agency survey, a core team of County staff, California Welfare Directors Association [CWDA] staff and State Department of Social Services [SDSS] staff developed and administered the survey. SDSS staff were particularly helpful in differentiating specific social service child abuse duties mandated under ICAN from those that are mandated [and funded] under other programs.

² DOJ's requirements are detailed in their 24 page "Guide to Reporting Child Abuse to the California Department of Justice," (2005), which was attached as Exhibit C to the County's initial draft Ps&Gs submission of January 14, 2008.

³ The declarations of two LASD staff, who were instrumental in developing the law enforcement ICAN time survey, were attached as Exhibit 1 [the Ferrell declaration] and as Exhibit 3 [the Scott declaration] to the County's January 21, 2010 filing with the Commission.

⁴ These excerpts are from the "Los Angeles County Sheriff Department Child Abuse Protocol" was attached as Exhibit 4 and the "Investigation and Prosecution of Child Abuse Manual, published by the American Prosecutors Research Institute was attached as Exhibit 7 to the County's January 21, 2010 filing with the Commission.

Active Investigation

Active investigations play a crucial role in the ICAN program. As noted in the "Child Abuse and Neglect Reporting Act Task Force Report", attached in pertinent part on page 6 of Exhibit 8 of the County's January 21, 2010 filing with the Commission, "... an agency may not forward a report to the Index unless it has conducted an active investigation (Pen. Code, § 11169, subd. (a)". The Task Force Report goes on to explain, on page 6, that:

"Key to whether an investigation will lead to a report being forwarded to the Index is the determination of whether abuse occurred. In order to be submitted to the Index, a report must be "substantiated" or "inconclusive." (See Pen. Code, §§ 11169, subd. (a), 11170, subd. (a)(1).) A "substantiated" report means one that the agency determines is based on some credible evidence of abuse; an "inconclusive" report is one that is not unfounded but in which the findings are inconclusive and there exists insufficient evidence to determine that child abuse or neglect occurred. (Pen. Code, § 11165.12, subs. (b), (c).)10 After conducting an active investigation and creating an investigative report, the investigating agency must submit to DOJ a one-page summary report on every case of abuse or severe neglect which is determined not to be "unfounded" (i.e., to be false or inherently improbable, to involve an accidental injury, or not to constitute child abuse). (Pen. Code, §§ 11165.12, subd. (a), 11169, subd. (a), 11170, subd.)."

Regarding the duties that must be performed in conducting an active investigation, Daniel Scott with the Los Angeles County Sheriff Department's Child Abuse Detail, indicates on page 2 in Exhibit 3 of the County's January 21, 2010 filing with the Commission, that:

"... the California Department of Justice (DOJ) Form SS 8583, as revised in June 2005, 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." "

The duty to prepare a report that will be retained in the files of the investigative agency also requires that relevant supplementary documents be prepared and retained in the files of the investigative agency⁵. These required reports and documents are not sent into DOJ for inclusion in their Child Abuse Central Index. Nevertheless, city and county must bear the costs of preparing and retaining these reports and documents. Accordingly, the time to perform these duties is included in the County's RRM's.

Law Enforcement RRM's

The County's law enforcement RRM's are based on four scenarios or levels of activities. As noted in the declaration of Suzie Ferrell with the Los Angeles County Sheriff Department's Field Operation Support Services, attached as Exhibit 1 of the County's January 21, 2010 filing with the Commission, the four levels and reasonably necessary activities are:

Level - 1 No Child Abuse Based on Suspected Child Abuse Report (SCAR) Form

Receive SCAR from Department of Children and Family Services (DCFS); it is determined that no child abuse incident occurred based on SCAR information; SCAR is closed with no action taken.

Watch Officer opens SCAR from DCFS on computer (via RightFAx)
Watch Officer Prints SCAR for patrol officer
Watch Officer renames SCAR on computer
Watch Officer reviews SCAR for processing
Watch Officer initiates SCAR as a call for service in Computer Aided Dispatch (CAD) system
Watch Officer renames SCAR (adding tag#)
Watch Commander reviews and approved closure of SCAR

⁵ Specifically, Section 901(j) of Title 11 of the California Code of Regulations indicates that "Investigation Report" or "Underlying Investigative Report" means original and supplemental investigative documents developed by an agency during an investigation of a child abuse incident and that resulted in a report to DOJ".

Watch Officer enters the closure of the SCAR in CAD

Level - 2 Patrol Investigation and No Child Abuse

Receive SCAR from DCFS; patrol officer investigates and determines no child abuse incident occurred.

Watch Officer opens SCAR from DCFS on computer (Via RightFax)
Watch Officer Prints SCAR
Watch Officer renames SCAR on computer
Watch Officer Reviews SCAR for processing
Watch Officer initiates SCAR as a call for service in CAD
Watch Officer renames SCAR (adding tag#)
Dispatch Officer assigns call to patrol officer
Patrol Officer receives call for service and acknowledges call
Patrol Officer interviews child
Patrol Officer interviews parents, siblings, witness, suspect
Patrol Officer enters closure of the SCAR in CAD

Level - 3 Child Abuse Investigation with Non-Severe Injuries (Physical & Mental)

Receive SCAR from DCFS; patrol officer investigates and writes a report; detective investigates incident.

Watch Officer opens SCAR from DCFS on computer (via RightFax)
Watch Officer prints SCAR
Watch Officer renames SCAR
Watch Officer reviews SCAR
Watch Officer initiates SCAR as a call for service in CAD

Watch Officer renames SCAR (adding tag#)
Dispatch Officer assigns call to Officer
Patrol Officer receives call for services and acknowledges call
Patrol Officer initial interview with child
Patrol Officer interview of parents, siblings, witnesses, suspects
Patrol Officer collects evidence (pictures, etc.)
Patrol Officer books evidence in to station
Patrol Officer writes child abuse incident report
Sergeant's approval of report
Secretary SSCII enters information in to LARCIS
Secretary SSCII copies, processes to detectives, and files report
Watch Officer renames SCAR as completed
Detective conducts Criminal History check
Detective collaborates with DCFS/CSW
Detective receives report and reviews
Detective reviews evidence
Detective interviews child
Detective interviews witnesses
Detective interviews suspect
Detective writes additional reports
Detective Sergeant approves reports and arrest
Secretary OAI – Tracking, filing, file preparation, etc.
Detective arrests suspect and book suspect
Detective presents all documentation and evidence to District Attorney's Office
Detective completes DOJ/CACI form

Detective completes DOJ/CACI advisement form (to suspect)

Detective completes Mandated Reporter notification form

Level - 4 Child Abuse Investigation Severe Injuries (Physical, Mental, & Sexual)

Receive SCAR from DCFS; patrol officer investigates, takes child to hospital for medical treatment, and writes a report; detective investigates incident.

Watch Officer opens SCAR from DCFS on computer (via RightFax)

Watch Officer prints SCAR

Watch Officer renames SCAR

Watch Officer reviews SCAR

Watch Officer initiates SCAR as a call for service in CAD

Watch Officer renames SCAR (adding tag#)

Dispatch Officer assigns call to patrol Officer

Patrol Officer receives call for services and acknowledges call

Patrol Officer initial interview with child

Patrol Officer interview of parents, siblings, witnesses, suspects

Patrol Officer collects evidence (pictures, etc.)

Patrol Officer - Sexual Assault and/or Physical Abuse Medical Exam at Hospital

Patrol Officer books evidence in to station

Patrol Officer writes child abuse incident report

Sergeant's approval of report

Secretary SSCII enters information in to LARCIS

Secretary SSCII copies, processes to detectives, and files report

Watch Officer renames SCAR as completed

Detective conducts Criminal History check
Detective collaborates with DCFS/CSW
Detective receives report and reviews
Detective reviews evidence
Detective - Forensic interview with child
Detective interviews witnesses
Detective interviews suspect
Detective - Consultation with Expert medical Professionals
Detective - Polygraph
Detective - DNA Retrieval
Detective - Review School Records
Detective - Crime scene/victim diagram/photography
Detective - Multi-Disciplinary Team Case Review
Detective writes reports
Detective Sergeant approves report and arrest
Detective - Search Warrant Prep, Ops Plan, and service of warrant
Detective - Protective Custody
Secretary OAI - Tracking, filing, file preparation, etc.
Detective arrests suspect and book suspect
Detective presents all documentation and evidence to District Attorney's Office
Detective completes DOJ/CACI form
Detective completes DOJ/CACI advisement form (to suspect)
Detective completes Mandated Reporter notification form

Suzie Ferrell, with the Los Angeles County Sheriff Department's Field Operation Support Services, notes in her declaration, attached as Exhibit 1 of the County's January 21, 2010 filing with the Commission, that she has met and conferred with

law enforcement officials throughout the State as well as staff representing various State associations in developing the [above] law enforcement survey instrument. She believes that the four levels, and activities identified within each level, are reasonably necessary in conducting ICAN investigations, preparing ICAN reports and performing other required ICAN duties.

In addition, Daniel Scott with the Los Angeles County Sheriff's Department, Special Victims Bureau, Child Abuse Detail indicates on page 2 of his declaration, attached as Exhibit 3 of the County's January 21, 2010 filing with the Commission, that he believes that the four levels, and activities identified within each level identified in Ms. Ferrell's declaration are reasonably necessary in conducting ICAN investigations, preparing ICAN reports and performing other required ICAN duties.

It should be noted that Mr. Scott is an expert in child abuse investigations. His credentials include:

1. 29 years of law enforcement experience, including more than 22 years of service in the Los Angeles County Sheriff's Department Family Crimes Bureau as a detective and sergeant specializing in child abuse investigations.
2. Developing and coordinating the law enforcement curriculum for Los Angeles County's Department of Children and Family Services' Bureau of Child Protection Inter-Agency Investigative Academy.
3. Lecturing for the California Sexual Assault Investigators Association, the American Prosecutors Research Institute, Child-help USA, and Children's Institute International.
4. Co-authoring an article entitled "Silent Screams – One Law Enforcement Agency's Response to Improving the Management of Child Abuse Reporting and Investigations", published in the 2001-02 issue of the Journal of Juvenile Law (22 J. Juv. L. 29).

Importantly, Mr. Scott, in his declaration, on page 2 of Exhibit 3 of the County's January 21, 2010 filing with the Commission, reiterates the necessity for including the activities identified in Ms. Ferrell's declaration when conducting ICAN investigations, preparing ICAN reports and performing other required ICAN duties. In addition, he makes the following points:

1. "The omission of one or more ICAN activities described ... [herein] ... could impair the requirement to conduct an "active investigation" as defined in the California Department of Justice (DOJ) Form SS 8583, as revised in June 2005."
2. "The omission of one or more ICAN activities described ... [herein] ... could impair the determination of whether the incident is substantiated, inconclusive or unfounded."
3. "Form SS 8583 states that a determination that an incident is inconclusive occurs when there is "... insufficient evidence of abuse, not unfounded (incident)".
4. "Form SS8583 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)."
5. "The omission of one or more ICAN activities described ... [herein] ... 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."
6. "Accordingly, ... the activities described [herein] are reasonably necessary in performing ICAN duties."

Also, the seriousness of inadequate investigations was recently addressed by the Court in Humphries v. County of Los Angeles, 554 F.3d 1170 [2009], attached as Exhibit 8 of the County's January 21, 2010 filing with the Commission. The Court states, on page 24 of Exhibit 8, that:

"Appellees argue that the current procedures present little risk of erroneous deprivation because an agency may transmit a child abuse report only after it "has conducted an active investigation and determined that the report is not unfounded." CAL. PENAL CODE § 11169(a). We are not assuaged. A determination that the report is "not unfounded" is a very low threshold. As we explained above, CANRA defines an "unfounded report" as a report that the investigator determines "to be false, to be inherently improbable, to involve an

accidental injury, or not to constitute child abuse or neglect.” CAL. PENAL CODE § 11165.12(a). Effectively, a determination that a report is “not unfounded” merely means that the investigator could not affirmatively say that the report is “false.” This is the reverse of the presumption of innocence in our criminal justice system: the accused is presumed to be a child abuser and listed in CANRA unless the investigator determines that the report is false, improbable, or accidental. Incomplete or inadequate investigations must be reported for listing on the CACI.”

Therefore, the full range of activities described in Ms. Ferrell’s declaration are reasonably necessary in minimizing the occurrence of incomplete or inadequate investigations.

It should be noted that the activities used in the law enforcement survey may be further delineated into very specific procedures and checklists for conducting ICAN investigations. Exhibit 7, of the County’s January 21, 2010 filing with the Commission, contains a 15 page example which is excerpted from the “Investigation and Prosecution of Child Abuse” manual published by the American Prosecutors Research Institute. While comprehensive, a survey instrument based on this manual would have been very lengthy and time consuming for respondents to complete. So a much shorter instrument was used.

Law Enforcement Survey

The law enforcement survey administered by the California State Association of Counties and League of California Cities is found in Exhibit 5 of the County’s January 21, 2010 filing with the Commission. The survey requested that respondents provide the class code and salary costs of personnel performing activities in each of the four levels specified in Ms. Ferrell’s declaration as well the minimum, maximum and average time spent on each activity within each level.

Twelve law enforcement agencies responded. Together, they serve over half of the State’s population. The city law enforcement agency respondents were from Chula Vista, Fresno, Irvine, Los Angeles, Pasadena, San Mateo and Santa Ana. Those from counties were from Alameda, Los Angeles, San Bernardino, Santa Clara and Yolo.

The survey results for the average time category for each activity were compiled by the County and are found in Exhibit 2. The class code and salary information was not compiled. Instead, the County proposes to have claimants compute their

blended productive hourly rate, in accordance with long established State
Controllers Office instructions, when computing their reimbursement claims.

The law enforcement standard times⁶ for each level that are used in the County's
revised ICAN Ps&Gs are:

Level - 1 No Child Abuse Based on Suspected Child Abuse Report (SCAR) Form

Receive SCAR from Department of Children and Family Services (DCFS); it is
determined that no child abuse incident occurred based on SCAR information;
SCAR is closed with no action taken. [Standard time is 110 minutes.]

Level - 2 Patrol Investigation and No Child Abuse

Receive SCAR from DCFS; patrol officer investigates and determines no child
abuse incident occurred. [Standard time is 268 minutes.]

Level - 3 Child Abuse Investigation with Non-Severe Injuries (Physical & Mental)

Receive SCAR from DCFS; patrol officer investigates and writes a report;
detective investigates incident. [Standard time is 934 minutes.]

Level - 4 Child Abuse Investigation Severe Injuries (Physical, Mental, & Sexual)

Receive SCAR from DCFS; patrol officer investigates, takes child to hospital for
medical treatment, and writes a report; detective investigates incident. [Standard
time is 2,162 minutes.]

There is an additional level 5. This level involves major cases where a child death,
kidnapping, multiple victims from a daycare center and other serious matters are
involved. Typically, these major cases are unique and require extensive and
lengthy investigations. Therefore, these cases were not included in the standard
time survey. However, reimbursement for these cases is provided for in the
County's revised ICAN Ps&Gs using the actual cost method. Here, claimants
would provide a detailed itemization of the costs incurred in performing reasonably
necessary activities, including labor, service and supply, equipment and contract
costs.

⁶ See Exhibit 2 for the standard times of activities within each level.

County Welfare Agency Survey

The County's revised ICAN Ps&Gs includes RRM's for recovering county welfare agency costs. These RRM's were developed by a core team of County staff, California Welfare Directors Association [CWDA] staff and State Department of Social Services [SDSS] staff. SDSS staff were particularly helpful in differentiating specific social service child abuse duties mandated under ICAN from those that are mandated [and funded] under other programs.

Julie Kimura, with SDSS, provided some information that was useful in developing county welfare agency RRM's in her March 19, 2009 e-mail to the ICAN team members. This e-mail, along with its attachments, is found in Exhibit 9 of the County's January 21, 2010 filing with the Commission. This first attachment, on pages 4-7 of Exhibit 9, provides responses to specific requests for information required to ascertain reasonably necessary and unique ICAN activities. Such requests and responses are as follows:

“REQUEST:

A description of what causes a hotline or other emergency response referral to move forward to a Child Welfare Services (CWS) case.

RESPONSE:

Any referral received by CWS has the potential to become a case. The following activities are mandated by Manual of Policies and Procedures (MPP) Division 31. It should be noted that there are several activities during this process, which are mandated by statute other than Child Abuse and Neglect Reporting Act (CANRA). It should also be noted that counties have different protocols; however, all counties are required to follow the MPP Division 31 regulations. Basic activities leading to the opening of a CWS case per MPP Division 31 regulations are as follows:

Intake (Div. 31-101 through 120.12):

Interview reporting party (intake screener receives phone call) and/or review Suspected Child Abuse Report (SCAR) (form ss 8572).

Fill out Emergency Response Protocol (SOC 423) or approved substitute.

- This includes reviewing CWS history and interviewing by phone, if necessary, any collateral contacts. However, most collateral information would be gathered during the investigation.

Determine response (an assessment tool – Structured Decision Making (SDM) or Comprehensive Assessment tool (CAT)-is used).

Evaluate Out

Differential Response (referral to community based organization)

Immediate in person investigation

Ten day investigation

Response determination approved by supervisor.

Investigation (Div. 31-125 through 135.41):

The social worker shall have in person contact with all children alleged to be abused, neglected or exploited and at least one adult who has information regarding the allegations.

If referral is not unfounded, the social worker shall interview all children present at time of the investigation, and all parents who have access to the children alleged to be at risk of abuse, neglect or exploitation. Interviewing additional children not present at the time of the investigation is at the discretion of the county.

The social worker shall make a determination as to whether services are appropriate (i.e. if allegations are substantiated), and if necessary, file a dependency petition.

The social worker shall request assistance from Law Enforcement if necessary (i.e. safety factors are present or if removal of a child is necessary and the social worker is not deputized.)

If the social worker determines that the child cannot be safely maintained in his/her home, the social worker shall ensure that authority to remove the child exists (if voluntary-written consent from parent/guardian, if involuntary- temporary custody per Welfare and Institutions Code Sections 305 & 306 or Court order).

There are a number of additional activities that could occur, but are not specifically dictated in the Emergency Response Regulations (such as Indian Child Welfare Act requirements, placement regulations, contact with collateral sources, MDIC interviews, etc., but these do not fall under CANRA mandates).

Child Abuse and Neglect Reporting Requirements (Div. 31-501)

The county shall report abuse as defined in Penal Code (PC) Section 11165.6 to law enforcement departments and the District Attorney's office.

When the county receives a report of abuse that has allegedly occurred in a licensed facility, the county shall notify the licensing office with jurisdiction over the facility.

The county shall submit a report pursuant to PC Section 11169 to the Department of Justice of every case it investigates of known or suspected child abuse that it has determined not to be unfounded.

REQUEST:

A break out of training activities/costs associated with investigations and other CANRA reporting activities.

RESPONSE:

The following training activities are required for new CWS social workers and are conducted through Core Training courses which are funded by Title IV-E monies provided to the Regional Training Academies. Core Training does not use the terminology "investigation." Social workers are trained to "assess." These classes include information required to understand and perform all CWS assignments but are focused on Emergency Response duties. They fulfill many other requirements that are unrelated to CANRA mandates.

- Child Maltreatment Identification Part 1: Neglect, Emotional Abuse and Physical Abuse (1.5 days);
- Child Maltreatment Identification Part 2: Sexual Abuse and Exploitation(1.5 days);

- Critical Thinking in Child Welfare Assessment: Safety, Risk and Protective Capacity (1 day);
- Basic Interviewing (1 day).

REQUEST:

Information on activities associated with entering data on CWS/Case Management System (CMS) as the system automatically populates the form.

RESPONSE:

The activities for documenting allegations of a referral are built into CWS/CMS as part of the ER investigation process. Once a referral and the resulting documentation is complete, and if a cross report to Law Enforcement, the District Attorney and/or the Department of Justice is required, the social worker completes the cross report through a CWS/CMS generated report. The report requires placing a checkbox next to the required agency, generating a form which has the majority of necessary information populated from the case record, and writing a brief summary of the investigation which often can be copied from case contact notes.

There is also training provided by CWS/CMS regarding use of the CWS/CMS system which includes filling out the CWS/CMS fields that generate the cross report to DOJ. Training for this process would be included in CWS/CMS new user training and would take less than one hour. The cost of training to fill out the form fields would be considered absorbable within CWS/CMS new user training. All CWS social workers are expected to attend this training, regardless of their unit assignments.”

Julie Kimura also provided important funding information for pertinent ICAN related time study codes used by SDSS. The three codes identified by Ms. Kimura, which are included in her e-mail on pages 13-14 of Exhibit 9 of the County’s January 21, 2010 filing with the Commission, are:

“Time Study Code 5134 Emergency Assistance – ER Referrals

Includes time spent receiving emergency referrals, assessing whether the referral is a child welfare services referral, completing the ER protocol, and investigating emergency allegations, including collateral contacts. This includes time spent closing those cases in which allegations are unfounded.

For those cases that the allegations are not unfounded, it includes time spent in investigation activities, reporting to the California Department of Justice and noticing the parents regarding the temporary custody of the child.

Funding: TANF (85/00/15, federal/state/county share respectively)

Time Study Code 5441 CWS – Minor Parent Investigations (MPI) AB 908

This code has been established to capture social worker time spent performing in-person investigation activities for teen pregnancy disincentive requirements. Investigation activities include:

Completing an in-home investigation of a minor parent's allegation of risk of abuse/neglect and returning the CA 25s to the eligibility worker indicating the results of the investigation; completing an in-person assessment of the minor parent and his/her child(ren); developing a safety plan that will include MPS for the minor parent and his/her child(ren); and referrals of minor parent to other available services.

Funding: TANF (50/35/15)

Time Study Code 1701 CWS – Emergency Hotline Response

(Code deleted effective with the December 05 quarter and investigation/reporting activities now reported to time study code 5134)

Includes time spent performing initial activities in response to and investigation of all reports or referrals alleging abuse, neglect or exploitation of children. Allowable Emergency Hotline Response activities include, but are not limited to:

Operating a 24-hour emergency hotline response program; evaluating and investigating telephone reports of abuse, neglect or exploitation, including reports on the 24-hour hotline; determining client risk for emergency response by screening in-coming calls; determining whether a reported situation is an emergency or non-emergency within required timeframes; determining emergency response needs; providing crisis intervention; referring clients to appropriate emergency response service agencies; gathering documentation of abuse for law enforcement agencies; documenting and completing all required forms; and preparing written reports and assessments.

Funding: Title IV-E (50/35/15)"

After considerable discussion on how to separate the unique and reasonably necessary ICAN duties from other duties, an RRM survey instrument was devised. This instrument is found in Exhibit 10. Respondents were asked to respond to six groups of questions. The questions and summary results were as follows:

1. "The number of *Child Abuse Summary Report* (SS 8583) forms that were completed by county staff, the average amount of time spent completing the form, and the classification of the worker completing the form.

June 2009 Quarter - Tentative Results:
Eight Counties completed 15,101 SS 8583 forms
Weighted average state-wide time for each form was 22 minutes

2. The number of *Suspected Child Abuse Report* (SS 8572) forms that were completed by county staff, the average amount of time spent completing the form, and the classification of the worker completing the form.

June 2009 Quarter - Tentative Results:
Eight Counties completed 19,469 SS 8572 forms
Weighted average state-wide time for each form was 23 minutes

3. The number of *Notice of Child Abuse Central Index Listing* (SOC 832) forms completed and mailed by county staff, the average amount of time spent completing and mailing the forms, and the classification of the worker completing the forms.

June 2009 Quarter - Tentative Results:
Eight Counties completed 12,394 SOC 832 forms
Weighted average state-wide time for each form was 13 minutes

4. The amount of time required to file copies of the SS 8583 and SS 8572 forms with a copy of the investigative report and the classification of the workers who filed copies of the reports.

June 2009 Quarter - Tentative Results:
Four Counties completed 9,442 form/report filings
Weighted average state-wide time for each form was 22 minutes

5. The number of requests for information the county CWS agency received from DOJ, how much time it took staff to respond to the DOJ inquiries, and the classification of the workers who responded to the inquiries.

June 2009 Quarter - Tentative Results:
Seven Counties responded to 3,585 DOJ requests
Weighted average state-wide time for response was 9 minutes

6. The sources used to get the answers above as well as the methodology used to calculate the average amount of time spent on these activities.

June 2009 Quarter - Tentative Results:
Eight Counties used various sources and methods “

The [above] results are currently tentative and are pending further review. However, the results are incorporated in the County's revised ICAN Ps&Gs as a placeholder. To date, eight counties have responded. These counties serve well over 50 percent of the State's population.

Conclusion

In conclusion, the County has adhered to its definition of “cost-efficiency” in developing ICAN RRM's. Namely, implementation of a mandate is cost-efficient if only reasonably necessary activities are performed and allowable costs incurred in the implementation of the mandate.

Proof that the ICAN RRM's reflect the cost-efficient implementation of the ICAN mandate is supported with substantial evidence, cited above.



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

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**LOS ANGELES COUNTY'S COMMENTS
ON REASONABLE REIMBURSEMENT METHODOLOGIES
AS REQUESTED BY THE COMMISSION ON STATE MANDATES**

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 comments on reasonable reimbursement methodologies (RRMs) as requested by Drew Bohan, Executive Director of the Commission on State Mandates (Commission) on August 23, 2011.

I declare that I have met and conferred with local officials, claimants and experts in preparing the attached comments regarding RRM's for the County's Municipal Stormwater -- Transit Trash parameters and guidelines (Ps&Gs) adopted by the Commission on March 24, 2011 as well as the County's Interagency Child Abuse and Neglect (ICAN) Investigation and Reports Ps&Gs as proposed on January 21, 2010.

I declare that it is my information and belief that RRM's used in the (above) Ps&Gs meet requirements specified in Government Code 17518.5.

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.

12/15/11, Los Angeles, CA

Date and Place

Leonard Kaye

Signature



**COUNTY OF LOS ANGELES
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February 23, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Mr. Bohan:

**LOS ANGELES COUNTY'S REVIEW
PROPOSED PARAMETERS AND GUIDELINES
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES TEST CLAIMS**

The County of Los Angeles respectfully submits its review of parameters and guidelines for the Municipal Storm Water and Urban Runoff Discharges reimbursement program proposed by Commission staff.

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:\SB90A 02 11++ Storm water Ps&Gs Hearing/Cover letter 02 22 11

Enclosure

**Transit Trash Collection Unit [Per Pickup] Adjusted (2 10 11) Costs Survey Results (Note a)
 Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Part 4F5c3**

Respondent Survey	Fiscal Years							(X) Average # Pickups @.year (Note b)	(Y) Unit Cost @ Pickup (X/Y=Z)	M Weighted # Units (Note d)	M/Total=D Ave. Adjustment % of Total Result	DxZ Result
	2008-09	2007-08	2006-07	2005-06	2004-05	2003-04	2002-03					
1 Los Angeles County	\$893	\$1,241	\$1,152	\$1,122	\$1,127	\$1,132	\$1,111	156	\$7.12	2,513	34.81%	\$2.48
Beverly Hills [in watershed]												
Norwalk [e]	\$347	\$321	\$320	\$290	\$272	\$381	\$602	52	\$7.51	1,497	20.74%	\$1.56
2 Downey	\$311	\$299	\$708	\$144	\$144	\$144	\$144	134	\$2.02	1,434	19.86%	\$0.40
3 Carson [2.57x52 wks=134]	\$526	\$522	\$528	\$530	\$504	\$486	\$430	52	\$9.69	1,323	18.33%	\$1.78
4 Bellflower	\$1,504	\$1,504	\$1,504 [f]	\$1,271	\$1,361	\$1,224	\$1,180	104	\$14.46	39	0.54%	\$0.08
5 Azusa	\$1,299	\$1,299	\$1,271					104	\$12.23	63	0.87%	\$0.11
6 Artesia												
Commerce [in watershed]												
Covina [e]	\$398	\$384	\$374	\$374	\$374	\$353	\$343	52	\$7.14	350	4.85%	\$0.35
7 Signal Hill												
Average by Respondent	\$754	\$796	\$837	\$622	\$630	\$653	\$540	\$775		7,219	100.00%	\$6.74
Average by Year									Totals			
										Weighted Ave		

Notes
 [a] This survey table presents data by fiscal year and by respondent. A weighted mean average per pickup cost of \$6.74 was found.
 [b] Average annual unit cost per trash receptacle over the reimbursement period. Totals were divided by the number of nonzero years.
 [c] During FY 02-03, trash receptacles were installed over a 3-month period. During the installation period, the cleaning and trash pick-up service was first handled in-house and later by contract. Because the number of trash receptacles was not a fixed number during this period and the maintenance service was handled in-house and by contract, it is difficult to accurately annualize the unit cost for FY 02-03.
 [d] The number of units is the sum of all trash receptacles reported by respondents in each average annual cost year [above].
 [e] Survey results were inconclusive. In Norwalk's case, contractor billed city for the combined costs of trash collection and bus stop cleaning. In Covina's case, contractor used numerous metrics to bill city, including per ton disposal costs-by refuse type.
 [f] \$6,517 was incurred during four months of 2006-07. Annualized cost was \$19,551 for 13 receptacles or 1,504 per receptacle.