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**COUNTY OF LOS ANGELES  
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Commission on  
State Mandates

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Heather Halsey  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Dear Ms. Halsey:

**REVIEW OF COMMISSION STAFF'S PARAMETERS AND GUIDELINES  
INTERAGENCY CHILD ABUSE AND NEGLECT INVESTIGATION REPORTS**

We respectfully submit our review of Commission staff's draft staff analysis and proposed parameters and guidelines (Ps&Gs) for the Interagency Child Abuse and Neglect Investigation Reports (ICAN) program.

If you have any questions, please contact Leonard Kaye at (213) 974-9653 or via e-mail at [lkaye@auditor.lacounty.gov](mailto:lkaye@auditor.lacounty.gov).

Very truly yours,

*John Naimo FOR*

Wendy L. Watanabe  
Auditor-Controller

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Enclosure

Executive Summary  
Review of Commission's Proposed Parameters and Guidelines  
Interagency Child Abuse and Neglect Investigation Reports Program

Los Angeles County (County) has reviewed the 'parameters and guidelines' (Ps&Gs) proposed by Commission on State Mandates (Commission) staff for reimbursing city and county law enforcement agencies, county welfare departments, and county probation departments for new child abuse investigation, reporting and related services.

The new Interagency Child Abuse and Neglect Investigation Reports (ICAN) program requires that every child abuse referral be evaluated, investigated, and, based on evidentiary findings, reported to the State Department of Justice (DOJ). This is a large and costly undertaking. In 2001 alone, various agencies and private individuals referred 671,422 children for child abuse evaluations, investigations and possible listing in DOJ's Child Abuse Central Index (CACI).

The County agrees with many of Commission staff's proposed reimbursements for costs incurred in providing ICAN services since July 1, 1999. However, there is substantial disagreement over the scope of reimbursable investigation services.

The County maintains that reimbursement for investigation services should use the explicit language of California law previously found by the Commissioners to impose reimbursable costs on local government. However, Commission staff do not always follow this rule.

For example, Commissioners decided that implementing the Attorney General's child abuse investigation regulations was a reimbursable activity. These regulations explicitly state that 'gathering and preserving evidence' is a necessary investigation step. However, Commission staff erroneously took out reimbursement for carrying out this step. So, the County put it back.

Also, the County revises staff's provisions which are unclear. For example, staff propose reimbursement for "dispatching" interviewers, but not for conducting interviews. So, the County added "conducting interviews".

Accordingly, the County recommends that the Commissioners adopt their staff's proposed Ps&Gs as revised by the County.

## Active Investigation

In order to file a child abuse report for inclusion in the Child Abuse Central Index (CACI), an “active investigation” of the child abuse referral must be conducted. This mandate is explicitly stated, in pertinent part, in Penal Code section 11169(a). It requires that:

“An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation ... “<sup>1</sup>  
(Emphasis added.)

The California Department of Justice (DOJ) has developed a regulation and a child abuse reporting form which specified what constitutes an “active investigation”. These specifications along with Penal Code section 11169 were found to impose reimbursable ‘costs mandated by the State’ upon local government by the Commission on December 6, 2007.

Specifically, the reimbursable “active investigation” are those stated in DOJ’s Form SS 8583 (Child Abuse Investigation Report)<sup>2</sup> and California Code of Regulations, Title 11, Section 901<sup>3</sup>.

Form SS 8583 and Section 901 both specify that:

“ ... at a minimum: assessing the nature and seriousness of the known or suspected abuse; conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available; gathering and preserving evidence; determining whether the incident is substantiated,

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<sup>1</sup> The entire Penal Code Section 11169 as added by Stats.1980, c. 1071, § 4. and amended by Stats.1981, c. 435, § 4, eff. Sept. 12, 1981; Stats.1985, c. 1598, § 8; Stats.1988, c. 269, § 4; Stats.1988, c. 1497, § 1; Stats.1997, c. 842 (S.B.644), § 5; Stats.2000, c. 916 (A.B.1241), § 27; Stats.2001, c. 133 (A.B.102), § 14, eff. July 31, 2001; Stats.2004, c. 842 (S.B.1313), § 17; Stats.2011, c. 468 (A.B.717), § 2; Stats.2012, c. 848 (A.B.1707), § 1.) is found in Exhibit 16, pages 138-147.

<sup>2</sup> A copy of DOJ’s form for child abuse investigators to complete and instructions for doing so, is in Exhibit 8.

<sup>3</sup> A copy of the California Code of Regulations, Title 11, Section 901 is in Exhibit 7.

inconclusive, or unfounded; and preparing a report that will be retained in the files of the investigating agency”.<sup>4</sup>

In addition, the “Guide to Reporting Child Abuse to the California Department of Justice” issued in 2005<sup>5</sup>, emphasizes the need to comply with Section 901’s requirements and includes Form SS 8583 which details instructions for child abuse investigators to follow in completing Form SS 8583.

Further, Sergeant Daniel Scott with the Los Angeles County Sheriff’s Department, Special Victims Bureau, declares “that the omission of one or more ICAN investigation activity 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”.

However, Commission staff recommend that the costs incurred in conducting “active investigations “ not be reimbursed to city and county law enforcement agencies, county welfare departments, and county probation departments incurring “active investigation” costs. They recommend limited reimbursement for limited investigations, rather than complete reimbursement for “active investigations”.

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<sup>4</sup> Effective January 1, 2012, Chapter 468, Statutes of 2011, Assembly Bill (AB) 717 was enacted and discontinued the requirement for law enforcement agencies to file report child abuse reports with DOJ and also discontinued reporting of inconclusive child abuse findings to DOJ by amending Penal Code section 11169(a) to state that:

“An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated, as defined in Section 11165.12”

The County’s revisions of Commission staff’s investigation reimbursement provisions for the period starting January 1, 2012 are identical to those proposed for the earlier period, except for the (above) changes in law.

<sup>5</sup> A copy of the “Guide to Reporting Child Abuse to the California Department of Justice” issued in 2005 , is in Exhibit 9.

Specifically, Commission staff's limited investigation reimbursement provision for the period July 1, 1999 to December 31, 2011, is:

“ ... city and county police or sheriff's departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments, for: completing an investigation for purposes of preparing the SS 8583 report to determine whether a report of suspected child abuse or severe neglect 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.<sup>6</sup> Except as provided in paragraph below, this activity includes review of the initial Suspected Child Abuse Report (Form 8572), and dispatching an employee to conduct initial interviews with parents, victims, suspects, or witnesses, where applicable.”

And, Commission staff's propose even further investigation reimbursement limitations:

***“Reimbursement is not required in the following circumstances:***

- i. Investigative activities conducted by a mandated reporter to complete the Suspected Child Abuse Report (Form SS 8572) pursuant to Penal Code section 11166(a).
- ii. In the event that the mandated reporter is employed by the same child protective agency required to investigate and submit the “Child Abuse Investigation Report” Form SS 8583 or subsequent designated form to the Department of Justice, pursuant to Penal Code section 11169(a), reimbursement is not required if the investigation required to complete the Form SS 8572 is also sufficient to make the determination required under section 11169(a), and sufficient to complete the essential

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<sup>6</sup> Penal Code section 11169(a) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468, § 2 (AB 717)); Code of Regulations, Title 11, section 903; “Child Abuse Investigation Report” Form SS 8583.

information items required on the Form SS 8583, pursuant to Code of Regulations, title 11, section 903 (Register 98, No. 29).

iii. Investigative activities undertaken subsequent to the determination whether a report of suspected child abuse is substantiated, inconclusive, or unfounded, as defined in Penal Code section 11165.12, for purposes of preparing the Form SS 8583, including the collection of physical evidence, the referral to a detective, the conduct of follow-up interviews, and the potential making of an arrest.”

Regarding the payment limitations in subsections i, ii and iii (above), the County agrees with payment exceptions to investigations services in i. and ii., but disagrees with iii. for the following reasons.

Simply put, Item iii. could be interpreted to read that the “collection of physical evidence, the referral to a detective, the conduct of follow-up interviews, and the potential making of an arrest” are reimbursable if done before the determination whether a report of suspected child abuse is substantiated, inconclusive, or unfounded, as defined in Penal Code section 11165.12, for purposes of preparing the Form SS 8583”. Also some agencies do not have ‘detectives’, so only agencies that do would be denied reimbursement. In addition, the phrase “potential making of an arrest” is vague. There is no explanation of the term “potential-making” and no indication as to what types of arrests disqualify reimbursement.

Therefore, the County recommends deleting the portion of exception iii. that reads “including the collection of physical evidence, the referral to a detective, the conduct of follow-up interviews, and the potential making of an arrest”. The main purpose of limiting investigation reimbursement to those investigation costs incurred before a child abuse report is filed with DOJ would still be preserved.

Therefore, the County recommends revising the reimbursement limitation in iii. as follows:

“iii. Investigative activities undertaken subsequent to the determination whether a report of suspected child abuse is substantiated, inconclusive, or unfounded, as defined in Penal

Code section 11165.12, for purposes of preparing the Form SS 8583.”

### Reimbursable Investigation Services

Regarding Commission staff’s statement of investigation services which are reimbursable for the period July 1, 1999 to December 31, 2011, the County finds that some revision is required and recommends the following version:

“ ... city and county police or sheriff’s departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments, for: completing an investigation to determine whether a report of suspected child abuse or severe neglect 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.<sup>7</sup> Except as provided in the paragraph below, reimbursement for this activity includes but is not limited to: assessing the nature and seriousness of the known or suspected abuse, review of the initial Suspected Child Abuse Report (Form 8572); conducting interviews of the victim(s) and parent(s) and any known suspect(s) and witness(es) in their spoken language when appropriate and/or available; gathering and preserving evidence including, but not limited to, where applicable, videotaping interviews, obtaining medical exams, mental health exams, autopsies, DNA samples and polygraph tests necessary to gather and preserve evidence to determine if child abuse is unfound or if not unfound, whether child abuse is inconclusive or substantiated; and preparing a report that will be retained in the files of the investigating agency”.

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<sup>7</sup> Penal Code section 11169(a) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468, § 2 (AB 717)); Code of Regulations, Title 11, section 903; “Child Abuse Investigation Report” Form SS 8583.

The County recommends that the Commission adopt the (above) ICAN “active investigation” reimbursement provision for following reasons.

### Preparing “Retained” Reports

The County maintains that “preparing a report that will be retained in the files of the investigating agency” is a reimbursable activity and should not be omitted from the ICAN Ps&Gs as staff propose.

The County finds that the preparation of “retained” reports is an explicit requirement in conducting “active investigations” as defined in California Code of Regulations Title 11, section 901 and in DOJ child abuse reporting form SS 8583 and attached form instructions.

Also, the preparing of “retained” reports is necessary to satisfy Commission staff’s reimbursement provision that local governmental agencies shall obtain this retained report as specified<sup>8</sup>. Further, staff do not qualify their provision to obtain “retained” reports by stating that the report shall be obtained if available. So the mandated duty to prepare a report for local government agencies to obtain is unqualified.

Therefore, preparing “retained” reports is a required reimbursement provision that should be included in the ICAN Ps&Gs adopted by the Commission.

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<sup>8</sup> Specifically, this reimbursement provision is found on page 12 of staff’s Ps&Gs and states, in pertinent part, that:

“... city and county police or sheriff’s departments, county probation departments if designated by the county to receive mandated reports, county welfare departments, county licensing agencies, and district attorney offices shall:

Obtain the original investigative report from the agency that submitted the information to the CACI pursuant to Penal Code section 11169(a), and objectively review the report, when information regarding an individual suspected of child abuse or neglect, or an instance of suspected child abuse or neglect, is received from the CACI while performing existing duties pertaining to criminal investigation or prosecution, or licensing, or placement of a child.” (Emphasis added.)



## Initial Abuse Assessment

The County finds that in addition to “review of the initial Suspected Child Abuse Report (Form 8572)” proposed by Commission staff, that “assessing the nature and seriousness of the known or suspected abuse” is an explicit requirement of Section 901, which was included in the County’s test claim legislation and found to impose reimbursable ‘costs mandated by the State’ upon local governmental agencies by the Commission.

In addition, a review of Form 8572 (the initial suspected child abuse report, or SCAR, referral to investigators) by itself may be insufficient to assess the nature and seriousness of the purported child abuse incident. Form 8572 instructs preparers to provide a narrative of the incident<sup>9</sup>, but does not state that the narrative should address the nature and seriousness of the abuse. The child abuse investigator, under section 901, is required to inquire further if the nature and seriousness of a purported child abuse incident is not apparent after reading the 8572 form ... and the costs of doing so should be reimbursable.

Therefore, the County recommends adding “assessing the nature and seriousness of the known or suspected abuse”, to the review of the 8572 form in the ICAN Ps&Gs.

## Gathering and Preserving Evidence

The County maintains that the gathering and preserving of evidence is a reimbursable activity and should not be omitted from the ICAN Ps&Gs as staff propose. The County’s reimbursement provision for this activity is for:

“gathering and preserving evidence including, but not limited to, where applicable, videotaping interviews, obtaining medical exams, mental health exams, autopsies, DNA samples and polygraph tests necessary to gather and preserve evidence to determine if child abuse is unfound or if not unfound, whether child abuse is inconclusive or substantiated”

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<sup>9</sup> Form 8572 and accompanying instructions are found in Exhibit 9, on pages 65-66.

The County maintains that the gathering and preserving of evidence is a reimbursable child abuse investigation service. The part of the County's provision that provides reimbursement for evidence of child abuse is taken verbatim from the California Code of Regulations, Title 11, section 901 --- namely "gathering and preserving evidence".

The specific evidentiary procedures, tests, and exams that are referenced in the County's evidentiary reimbursement provision are based on declarations of County staff with extensive personal knowledge of and experience in complying with ICAN's service requirements.

#### Daniel Scott's Declaration

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

He has over 32 years of law enforcement experience, including more than 25 years of service in the Los Angeles County Sheriff's Department Family Crimes Bureau as a detective and sergeant specializing in child abuse investigations.

He has conducted over 1,500 ICAN child abuse investigations and supervised over 5,000 cases with the Los Angeles County Sheriff's Department.

He has co-authored 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).

He has lectured for the California Sexual Assault Investigators Association, the American Prosecutors Research Institute, Childhelp USA, and Children's Institute International.

He has developed and coordinated the law enforcement curriculum for Los Angeles County's Department of Children and Family Services' Bureau of Child Protection Inter-Agency Investigative Academy.

He declares that it is his information or belief that that omission of one or more ICAN investigation activity 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.

He declares that it is his information and belief that the omission of one or more ICAN investigation activities 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.

He declares that it is his information and belief that gathering and preserving evidence includes but is not limited to medical exams to determine if the child was sexually and/or physically abused, autopsies to determine if a child’s death was the result of child abuse, DNA and polygraph testing to determine if a person is a reportable suspect, and videotaping interviews for subsequent evidentiary examination.

Accordingly, Sergeant Scott provides substantial evidence supporting the County’s version of reimbursement provisions for child abuse investigations.

‘Lowest Common Denominator’ Limitation

Commission staff propose, on page 36 of their analysis, that the same child abuse investigation and reporting reimbursement provisions be applied equally to “all” entities subject to the mandate but only for what all such entities can and do perform --- in other words, only for the lowest common denominator, so to speak, of services actually provided.

The County disagrees with the ‘lowest common denominator’ limitation postulated by Commission staff, on page 36 of their analysis, as follows:

“To the extent that a mandate can be tied to or derived from CANRA, it must be limited to the investigative activities that all agencies can and do undertake. Any further investigation should not be attributed to the mandate of CANRA.” (Emphasis added.)

In other words if county welfare departments are not, for example, able to ‘gather and preserve evidence’ as part of their child abuse investigations, then law enforcement agencies will receive the same reduced reimbursement

– even if they do “gather and preserve evidence”. But the problem with this analysis is that it assumes facts not in evidence.

Commission staff as well as staff of the California Department of Social Services (SDSS) do not cite any evidence that county welfare agencies are not complying with the requirements of conducting an “active investigation”.

However, the County claims that all agencies subject to the ICAN mandates, including county welfare agencies, are complying with the ‘test claim legislation’ found to be reimbursable by the Commission and are therefore eligible to be reimbursed for their costs so incurred. Further, if specific agencies are not in compliance, agencies that are should not be penalized for the non-compliance of other agencies.

And, in some jurisdictions serious non-compliance has been noted. For example, the Solano County Grand Jury “found instances in which people who had not even been interviewed were nevertheless placed on the Registry (CACI)”<sup>10</sup>.

Regarding compliance with other investigative requirements such as the ‘gathering and preserving of evidence’, John E. Langstaff with the County’s Department of Children and Family services (DCFS), the designated county welfare agency, provides a relevant declaration.

#### John E. Langstaff

John E. Langstaff is a Children Services Administrator II with the Los Angeles County Department of Children and Family Services (DCFS), Business and Information Systems Division, and the Program Manager for the Electronic Suspected Child Abuse Report System (E-SCARS), which is a computerized child abuse and neglect cross report system developed in Los Angeles County as a joint DCFS-Sheriff’s Department-District Attorney project. E-SCARS links all 46 law enforcement agencies and the District Attorney in a single computerized cross report system.

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<sup>10</sup> See page 130 in Exhibit 15 in the article “The Child Abuse Registry – Part II – Victory in California”, for further discussion of CACI listing issues.

Mr. Langstaff has a Master of Science degree in psychology, and has worked for DCFS for 25 years, six months. He was a line Emergency Response Children's Social Worker (CSW) for nine years, investigating allegations of child abuse and neglect. He worked in policy, DCFS administration, at the Inter-Agency Council on Child Abuse and Neglect (ICAN), managed ICAN's National Center on Child Fatality Review (NCFR), and at DCFS training in my 25+ years with DCFS and has been the E-SCARS Manager at the DCFS Business and Information Systems Division since December of 2008.

Mr. Langstaff has made numerous public presentations regarding child abuse and neglect reporting and assessment on behalf of DCFS, have been a presenter on "Use of Technology in Child Abuse Investigation, Assessment and Prosecution" at ICAN's annual Nexus Conference (2010), is the current Chair of the ICAN Data Sharing Committee, and further, he was awarded the County Superstar Award for his work as the E-SCARS manager.

Mr. Langstaff has been the Project and Program Manager of the E-SCARS project during its major development, its production implementation countywide, during subsequent enhancements, and he continues to be the Program Manager. In his role as co-lead on the E-SCARS Steering Committee, he arranges and leads annual all-departments E-SCARS law enforcement meetings, and provide training and other assistance as needed.

Mr. Langstaff declares 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."

Mr. Langstaff declares that the omission of one or more ICAN investigation activity 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.

Mr. Langstaff declares that the omission of one or more ICAN investigation activities 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.

Mr. Langstaff declares that the processing of gathered evidence includes but is not limited to medical exams to determine if the child was sexually and/or physically abused, as well as the costs of autopsies to determine if a child's death was the result of child abuse.

Mr. Langstaff declares that the Los Angeles County Department of Children and Family Services (DCFS) routinely gathers, preserves and evaluates forensic evidence from medical and other tests and examinations required to complete mandated fields in DOJ's Form SS 8583, as revised in June 2005. Mr. Langstaff further supports his declaration with a copy of DCFS's child abuse forensic examination Bulletin, Issue 06-15, published on February 21, 2006, found on pages 14-17 in Exhibit 4.

Mr. Langstaff declares that he believes that DCFS costs of forensic child abuse tests and exams are necessary to complete the mandated fields in DOJ's Form SS 8583, as revised in June 2005, and are therefore reimbursable.

In addition to the child abuse forensic examination bulletin, Issue 06-15, provided by Mr. Langstaff, excerpts from the "California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims", issued by the Governor's Office of Emergency Services. is provided in Exhibit 10. These excerpts, on pages 86-92 present important considerations in the collection and preservation of evidence for child abuse investigators irrespective of their affiliation with law enforcement or child welfare agencies.

Accordingly, law enforcement and child welfare agencies can and do undertake the collection and preservation of evidence in conducting required child abuse investigations ... and, as noted by Jill Kanemasu, with the State Controller's Office (SCO), these evidentiary activities are reimbursable.

State Controllers Office

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 <sup>11</sup>. Ms. Kanemasu recommended, on the third page of her filing, that reimbursable activities should 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 evidentiary finding, are the costs of video taping interviews of victims and suspects."

It should be noted that Ms. Kanemasu's findings (above) do not differentiate child abuse investigation services conducted by law enforcement agencies from those performed by county welfare agencies. Both are the same ... and both are eligible to receive the same reimbursements for the costs incurred as specified by Ms. Kanemasu.

The County agreed with Ms. Kanemasu's findings and incorporated them in the County's "Review of State Agency Comments and Revised Parameters and Guidelines" filed with the Commission on May 10, 2010.

Accordingly, for all of the above reasons, the County finds that reimbursement for conducting "active investigations" of child abuse referrals is required as claimed herein and as included in County's revision of Commission staff's proposed Ps&Gs.

#### Due Process

The County agrees with Commission staff's proposed reimbursement provision for costs incurred in performing due process hearings. This reimbursement provision is found on page 13 of Commission staff's proposed Ps&Gs and provides reimbursement for:

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<sup>11</sup> A copy of Ms. Kanemasu's filing is found in Exhibit 12, pages 106-111.

“City and county police or sheriff’s departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments shall:

Provide due process reasonably necessary to comply with federal due process procedural protections under the 14th Amendment that must be afforded to individuals reported to the DOJ’s Child Abuse Central Index. This activity includes a hearing before the agency that submitted the individual’s name to CACI. This activity includes any due process procedures available to persons listed in the CACI prior to the enactment of Statutes 2011, chapter 468.

Reimbursement is not required for a hearing meeting the requirements of due process if a court of competent jurisdiction has determined that child abuse has occurred, or while the allegation is pending before a court.<sup>12</sup>”

The County includes the declaration of Francesca LeRue, the Due Process Coordinator for DCFS in Exhibit 5 and the declaration of Carlos Marquez, the Due Process Coordinator for the County’s Sheriff Department in Exhibit 3.

#### Carlos Marquez’s Declaration

Lieutenant Carlos Marquez, Due Process Hearing Coordinator, in the Special Victims Bureau (SVB) of the County Sheriff’s department declares that it is his information and belief that the costs of establishing and maintaining the Sheriff’s due process procedures under SVB Bureau Order #0023 (Child Abuse Central Index Process) and related procedures (found in Exhibit 3, pages 7-9) are reasonably necessary in complying with federal due process procedural protections under the 14<sup>th</sup> Amendment that must be afforded to individuals reported to DOJ’s Child abuse Central Index.

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<sup>12</sup> “Authority: 26 (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468 (AB 717)); *Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170; *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.”



Francesca LeRue

Francesca LeRue, is acting Division Chief of the Risk management Division of DCFS and Due Process Coordinator for hearing requests of those persons who maintain that DCFS erroneously reported them to DOJ for inclusion in the CACI.

Ms. LeRue declares that it is her information and belief that the costs of due process procedures established and maintained by DCFS, which are detailed in her attached DCFS Procedural Guide 0070-548.18; found in Exhibit 5, pages 21-37, are reimbursable because the activities detailed in the DCFS Guide are reasonably necessary in complying with federal due process procedural protections under the 14<sup>th</sup> Amendment that must be afforded to individuals to the DOJ's CACI.

Ms. LeRue further declares, on page 20 of Exhibit 5, that Form SOC 834 (attached to her declaration in Exhibit 5 on page 37) was developed by the State of California Health and Human Services Agency so that it could be used by persons who wish to request a grievance review hearing to challenge their referral to the CACI. Section C provides space for the aggrieved party's attorney or representative to list his or her name, address and telephone number. This further illustrates that the State allows aggrieved parties to bring attorneys to the grievance review hearing, thereby necessitating involvement by lawyers representing the County.

Accordingly, in addition to the due process reimbursements proposed by staff, the County adds the reasonably necessary activity of lawyers representing city and county law enforcement agencies, county welfare departments, and county probation departments in due process hearings of aggrieved persons when accompanied by their attorney. The additional due process reimbursement provision recommended by the County is:

In due process hearings where the aggrieved person is accompanied by an attorney, the costs of legal representation for the city and county law enforcement agencies, county welfare departments, and county probation departments are reimbursable.

Computer and Software Costs

The County maintains that reimbursement for computer and software costs necessary to implement ICAN's complex cross-reporting requirements is required. Commission staff disagree. Therefore, the County provides further evidence as to why computerization is required and does so in the declaration of John E, Langstaff, attached as Exhibit 4, on pages 10-17.

John E. Langstaff is a Children Services Administrator II with the Los Angeles County Department of Children and Family Services (DCFS), Business and Information Systems Division, and the Program Manager for the Electronic Suspected Child Abuse Report System (E-SCARS), which is a computerized child abuse and neglect cross report system developed in Los Angeles County as a joint DCFS-Sheriff's Department-District Attorney project. E-SCARS links all 46 law enforcement agencies and the District Attorney in a single computerized cross report system.

Mr. Langstaff declares that he has been the Project and Program Manager of the E-SCARS project during its major development, its production implementation countywide, during subsequent enhancements, and that I continue to be the Program Manager. In his role as co-lead an E-SCARS Steering Committee, he arranges and leads annual all-departments E-SCARS law enforcement meetings, and provide training and other assistance as needed.

Mr. Langstaff declares that he has reviewed reimbursement provisions in the Commission on State Mandates (Commission) staff analysis and proposed Ps&Gs for the ICAN program and notes that on pages 25-27 Commission staff deny reimbursement "... to periodically develop, update or obtain computer software and obtain computer equipment necessary for ICAN cross-reporting ...".

Mr. Langstaff declares that it is his information and belief that ICAN cross-reporting allows written reports transmission by "fax or electronic transmission" and that electronic transmission includes transmission using computers and specialized software.

Mr. Langstaff declares that it is his information and belief that electronic transmission using computers and specialized software is encompassed by the "electronic transmission" option and are in our jurisdiction a more

reliable method of cross-reporting than the one relying entirely on fax machines for the following reasons:

1. Fax machines must constantly be checked to ensure that sufficient paper is available and not jammed unlike computerized systems.
2. Fax machines require staff to receive and distribute hard copies of written reports who are not at their workplace 24 hours a day, assigned day, 7 days a week (24/7) while computerized systems are available 24/7.
3. Agencies (and there are 46 law enforcement agencies in our county) may change their fax numbers and the agency must communicate such changes to the Child Protection Hotline to ensure proper transmission and receipt of the fax.
4. The E-SCARS system, using computers, also has a database to track or produce reports regarding transmission, receipt of the SCAR, agency personnel assigned to investigate, agency findings, comments, report numbers, assigned District Attorney staff and court case numbers, assigned DCF by user social workers, a tracked log of all activities by user on the system, and many more features. These features are not available via fax based cross report systems, and each feature of the E-SCARS computer based system collectively helps to assure as close to 100% compliance with the cross reporting statute as is possible.

Therefore, Mr. Langstaff declares that it is his belief that ICAN cross-reporting reimbursements should include those for computer referrals and reports in a timely, reliable, and cost-efficient manner.

Accordingly, the County proposes that its original Ps&Gs reimbursement provision be reinstated in the Ps&Gs revised for Commission approval. Namely that reimbursement be provided to:

“To periodically develop, update or obtain computer software and obtain computer equipment necessary for ICAN cross-reporting.”

### Training

The County recommends the following reimbursement for training:

One-time per employee, train ICAN staff in State Department of Justice (DOJ) ICAN requirements. Reimbursable specialized ICAN training costs include those incurred to compensate participants and instructors for their time in participating in a training session and to provide necessary facilities, training materials and audio visual presentations.

Evidence for the necessity of providing the above training is provided in the declaration of Sergeant Daniel Scott found in Exhibit 1, pages 1-2. Sergeant Scott has developed and coordinated the law enforcement curriculum for Los Angeles County's Department of Children and Family Services' Bureau of Child Protection Inter-Agency Investigative Academy and declares that it is his information and belief that: .

1. Specialized training is necessary to ensure that ICAN's comprehensive child abuse referral assessments, investigations and reports are completed in a timely manner and in accordance with DOJ's requirements.
2. Specialized ICAN training be performed annually, so that new ICAN staff can be promptly trained and deployed.

In addition, 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<sup>13</sup>. Ms. Kanemasu recommended, on the third page of her filing, on page 108 in Exhibit 12, that one-time reimbursable activities include training as follows: :

"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 sessions and to provide necessary facilities, training materials and audio visual presentations. (One time per employee)"

The County has modified Kanemasu training reimbursement recommendation to permit reimbursement for participants as well as instructors, as participants are reasonably necessary for training to occur... indeed, absolutely essential. Therefore, the County recommends the following reimbursement for training:

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<sup>13</sup> A copy of Ms. Kanemasu's filing is found in Exhibit 12, pages 106-111.

One-time per employee, train ICAN staff in State Department of Justice (DOJ) ICAN requirements. Reimbursable specialized ICAN training costs include those incurred to compensate participants and instructors for their time in participating in a training session and to provide necessary facilities, training materials and audio visual presentations.

#### Reasonable Reimbursement Methodology (RRM)

Finally, it should be noted that the County had planned on developing an RRM before now to simplify the claiming process. However, on November 12, 2009, the process was interrupted to allow the Commission to determine which activities in the RRM surveys used at the time conformed to those found to be reimbursable by the Commission<sup>14</sup>. Subsequently, State agencies filed comments on the County's revised ICAN Ps&Gs. And, the County, on May 18, 2010, once again revised its Ps&Gs in light of those comments<sup>15</sup>.

It should be noted that the County's May 18, 2010 ICAN Ps&Gs filing included 3 levels of reimbursable law enforcement activities, not the five levels studied by Commission staff. Perhaps this filing was overlooked by staff. But if so, it is harmless error as the mission was to obtain a ruling from the Commission on what was reimbursable and, consequently, determine what can be surveyed.

Therefore, the County awaits Commissioner's imminent decision on the scope of reimbursable ICAN activities so that work on the RRM surveys can be completed. If the RRM is promptly completed after the Commissioners' decision, local governmental agencies providing ICAN services can finally be reimbursed for the substantial child abuse investigation and reporting costs they have incurred since July 1, 1999.

The County's revision of "Section IV REIMBURSABLE ACTIVITIES" of the ICAN Ps&Gs proposed by Commission staff is found on the following pages.

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<sup>14</sup> See Commission's letter to County's representative in Exhibit 11, page 105.

<sup>15</sup> See excerpts of County's May 18, 2010 filing in Exhibit 13, pages 112-122.

Parameters and Guidelines Recommendations  
Interagency Child Abuse and Neglect Investigations Reports

Los Angeles County recommends that the following (highlighted) changes be made to Section IV. REIMBURSABLE ACTIVITIES of the parameters and guidelines (Ps&Gs) proposed by Commission staff for the Interagency Child Abuse and Neglect Investigation Reports (ICAN) reimbursement program:

**IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed.

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 or time logs, sign-in sheets, invoices, and receipts.

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 salary and benefit costs when an activity is task-repetitive. Activities that require varying levels of effort are not appropriate for time studies. Claimants wishing to use time studies to support salary and benefit costs are required to comply with the State Controller's Time-Study Guidelines before a time study is conducted. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

**A. Periodic ~~One-Time~~ Activities**

**~~1. Policies and Procedures~~**

City and county police or sheriff's departments, county welfare departments, and county probation departments where designated by the county to receive mandated reports, may claim reimbursement for the increased costs to:

- a. Update Departmental policies and procedures necessary to comply with the reimbursable activities identified in IV B.
- b. Develop ICAN due process procedures 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].
- c. One-time per employee, train ICAN staff in State Department of Justice (DOJ) ICAN requirements . Reimbursable specialized ICAN training costs include those incurred to compensate participants and instructors for their time in participating in a training session and to provide necessary facilities, training materials and audio visual presentations.
- d. Develop or procure computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Reimbursable costs must be pro-rated to those costs incurred in performing mandated activities.

**B. On-going Activities**

**1. Distributing the Suspected Child Abuse Report Form**

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

- a. Distribute the child abuse reporting form adopted by DOJ (currently known as the “Suspected Child Abuse Report” Form SS 8572) to mandated reporters.<sup>16</sup>

## 2. Reporting Between Local Departments

- a. Accepting and Referring Initial Child Abuse Reports when a Department Lacks Jurisdiction:

City and county police or sheriff’s departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments 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.<sup>17</sup>

Reimbursement includes but is not limited to the continuing costs of developing or procuring computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Reimbursable costs must be pro rated to those costs incurred in performing mandated activities.

- b. 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:

1) County probation departments shall:

- i. Report by telephone 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

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<sup>16</sup> Penal Code section 11168, as added by Statutes 1980, chapter 1071 and amended by Statutes 2000, chapter 916.

<sup>17</sup> Penal Code sections 11165.9 (Stats. 2000, ch. 916, § 8 (AB 1241)).



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 relates 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.

- ii. 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 Penal Code section 11166.

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.<sup>18</sup>

Reimbursement includes but is not limited to the continuing costs of developing or procuring computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Reimbursable costs must be pro rated to those costs incurred in performing mandated activities.

2) County welfare departments shall:

- i. Report by telephone immediately, or as soon as practically possible, 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

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<sup>18</sup> Penal Code section 11166 (h) (As added by Stats. 1980, ch. 1071; amended by Stats. 1981, ch. 435; Stats. 1982, ch. 905; Stats. 1984, ch. 1423; Stats. 1986, ch. 1289; Stats. 1987, ch. 1459; Stats. 1988, chs. 269 and 1580; Stats. 1990, ch. 1603; Stats. 1992, ch. 459; Stats. 1993, ch. 510; Stats. 1996, chs. 1080 and 1081; and Stats. 2000, ch. 916 (AB 1241)). Renumbered at subdivision (i) by Statutes 2004, chapter 842 (SB 1313), and renumbered again at subdivision (j) by Statutes 2005, chapter 42 (AB 299).

<sup>4</sup> Penal Code section 11166(h) (As added by Stats. 1980, ch. 1071; amended by Stats. 1981, ch. 435; Stats. 1982, ch. 905; Stats. 1984, ch. 1423; Stats. 1986, ch. 1289; Stats. 1987, ch. 1459;

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 relates 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.

***Reimbursement is not required for 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."***

- ii. Send a written report thereof within 36 hours of receiving the information concerning the incident to any agency, including the law enforcement agency having jurisdiction over the case, to which it is required to make a telephone report under Penal Code section 11166.

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.<sup>19</sup>

Reimbursement includes but is not limited to the continuing costs of developing or procuring computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Reimbursable costs must be pro rated to those costs incurred in performing mandated activities.

c. 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:

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<sup>19</sup> Penal Code section 11166(h) (As added by Stats. 1980, ch. 1071; amended by Stats. 1981, ch. 435; Stats. 1982, ch. 905; Stats. 1984, ch. 1423; Stats. 1986, ch. 1289; Stats. 1987, ch. 1459; Stats. 1988, chs. 269 and 1580; Stats. 1990, ch. 1603; Stats. 1992, ch. 459; Stats. 1993, ch. 510; Stats. 1996, chs. 1080 and 1081; and Stats. 2000, ch. 916 (AB 1241)). Renumbered at subdivision (i) by Statutes 2004, chapter 842 (SB 1313), and renumbered again at subdivision (j) by Statutes 2005, chapter 42 (AB 299).

City and county police or sheriff's departments shall:

- 1) Report by telephone immediately, or as soon as practically possible, to the agency given responsibility for investigation of cases under Welfare and Institutions 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 section 11165.2(b), which shall be reported only to the county welfare department.<sup>20</sup>
- 2) 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 was in danger of abuse.
- 3) 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 Penal Code section 11166.

As of January 1, 2006, 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.<sup>21</sup>

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<sup>20</sup> Penal Code section 11166(i) (As added by Stats. 1980, ch. 1071; amended by Stats. 1981, ch. 435; Stats. 1982, ch. 905; Stats. 1984, ch. 1423; Stats. 1986, ch. 1289; Stats. 1987, ch. 1459; Stats. 1988, chs. 269 and 1580; Stats. 1990, ch. 1603; Stats. 1992, ch. 459; Stats. 1993, ch. 510; Stats. 1996, chs. 1080 and 1081; and Stats. 2000, ch. 916 (AB 1241)). Renumbered at subdivision (j) by Statutes 2004, chapter 842 (SB 1313), and renumbered again at subdivision (k) by Statutes 2005, chapter 42 (AB 299).

<sup>21</sup> *Ibid.*

<sup>7</sup> Penal Code section 11166 (As added by Stats. 1980, ch. 1071; amended by Stats. 1981, ch. 435; Stats. 1982, ch. 905; Stats. 1984, ch. 1423; Stats. 1986, ch. 1289; Stats. 1987, ch. 1459; Stats. 1988, chs. 269 and 1580; Stats. 1990, ch. 1603; Stats. 1992, ch. 459; Stats. 1993, ch. 510; Stats. 1996, chs. 1080 and 1081; and Stats. 2000, ch. 916 (AB 1241)).

Reimbursement includes but is not limited to the continuing costs of developing or procuring computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Reimbursable costs must be pro rated to those costs incurred in performing mandated activities.

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

District attorneys' offices 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(b).<sup>22</sup>

e. Reporting to Licensing Agencies:

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

- 1) 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 licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person.
- 2) 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 Penal Code section 11166.2. The agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

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<sup>22</sup> Penal Code section 11166.2 (Added by Stats. 1985, ch. 1598 § 4; amended by Stats. 1987, ch. 531 § 5; Stats. 1988, ch. 269 § 3; Stats. 1990, ch. 650 § 1 (AB 2423); Stats. 2000, ch. 916 § 18 (AB 1241)).

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.<sup>23</sup>

Reimbursement includes but is not limited to the continuing costs of developing or procuring computer software and equipment necessary for ICAN cross-reporting and reporting to DOJ. Reimbursable costs must be pro rated to those costs incurred in performing mandated activities.

f. Additional Cross-Reporting in Cases of Child Death:

1) City and county police or sheriff's departments shall:

Cross-report all cases of child death suspected to be related to child abuse or neglect to the county child welfare agency.<sup>24</sup>

2) County welfare departments shall:

i. Cross-report all cases of child death suspected to be related to child abuse or neglect to law enforcement.<sup>25</sup>

ii. 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.<sup>26</sup>

iii. Enter information into the CWS/CMS upon notification that the death was subsequently determined not to be related to child abuse or neglect.<sup>27</sup>

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<sup>23</sup> Penal Code section 11166.2 (Added by Stats. 1985, ch. 1598 § 4; amended by Stats. 1987, ch. 531 § 5; Stats. 1988, ch. 269 § 3; Stats. 1990, ch. 650 § 1 (AB 2423); Stats. 2000, ch. 916 § 18 (AB 1241)).

<sup>24</sup> Penal Code section 11166.9 (Stats. 2000, ch. 916, § 23 (AB 1241)); Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 § 13 (SB 1313)).

<sup>25</sup> Penal Code section 11166.9 (Stats. 2000, ch. 916, § 23 (AB 1241)); Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 § 13 (SB 1313)).

<sup>26</sup> Penal Code section 11166.9 (Stats. 2000, ch. 916, § 23 (AB 1241)); Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 § 13 (SB 1313); Stats. 2010, ch. 618, § 10 (AB 2791)).

### 3. Reporting to the State Department of Justice

a. From July 1, 1999 to December 31, 2011, city and county police or sheriff's departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments shall:<sup>28</sup>

1) Complete an investigation for purposes of preparing the report

Complete an investigation to determine whether a report of suspected child abuse or severe neglect 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.<sup>29</sup> Except as provided in the paragraph below, reimbursement for this activity includes but is not limited to: assessing the nature and seriousness of the known or suspected abuse, review of the initial Suspected Child Abuse Report (Form 8572); conducting interviews of the victim(s) and parent(s) and any known suspect(s) and witness(es) in their spoken language when appropriate and/or available; gathering and preserving evidence including, but not limited to, where applicable, videotaping interviews, obtaining medical exams, mental health exams, autopsies, DNA samples and polygraph tests necessary to gather and preserve evidence to determine if child abuse is unfound or if not unfound, whether child abuse is inconclusive or substantiated; and preparing a report that will be retained in the files of the investigating agency".

***Reimbursement is not required in the following circumstances:***

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<sup>27</sup> Penal Code section 11166.9 (Stats. 2000, ch. 916, § 23 (AB 1241)); Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 § 13 (SB 1313)).

<sup>28</sup> Pursuant to amendments to Penal Code section 11169(b) enacted by Statutes 2011, chapter 468 (AB 717), the mandate to report to DOJ *for law enforcement agencies only* ends on January 1, 2012. In addition, the duty for all other affected agencies is modified to exclude an "inconclusive" report.

<sup>29</sup> Penal Code section 11169(a) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468, § 2 (AB 717)); Code of Regulations, Title 11, section 903; "Child Abuse Investigation Report" Form SS 8583.

i. Investigative activities conducted by a mandated reporter to complete the Suspected Child Abuse Report (Form SS 8572) pursuant to Penal Code section 11166(a).

ii. In the event that the mandated reporter is employed by the same child protective agency required to investigate and submit the “Child Abuse Investigation Report” Form SS 8583 or subsequent designated form to the Department of Justice, pursuant to Penal Code section 11169(a), reimbursement is not required if the investigation required to complete the Form SS 8572 is also sufficient to make the determination required under section 11169(a), and sufficient to complete the essential information items required on the Form SS 8583, pursuant to Code of Regulations, title 11, section 903 (Register 98, No. 29).

iii Investigative activities undertaken subsequent to the determination whether a report of suspected child abuse is substantiated, inconclusive, or unfounded, as defined in Penal Code section 11165.12, for purposes of preparing the Form SS 8583. ~~including the referral to a detective, the conduct of follow-up interviews, and the potential making of an arrest.~~

2) Forward reports to the Department of Justice

Prepare and submit 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 (currently form 8583) and may be sent by fax or electronic transmission.<sup>30</sup>

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<sup>30</sup> Penal Code section 11169(a) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468, § 2 (AB 717)); Code of Regulations, Title 11, section 903; “Child Abuse Investigation Report” Form SS 8583.

This activity includes costs of preparing and submitting an amended report to DOJ, when the submitting agency changes a prior finding of substantiated or inconclusive to a finding of unfounded or from inconclusive or unfounded to substantiated.

*Reimbursement is not required for the costs of the investigation required to make the determination to file an amended report.*

b. **Beginning January 1, 2012**, county welfare departments, or county probation departments where designated by the county to receive mandated reports shall:

1) Complete an investigation

Complete an investigation to determine whether a report of suspected child abuse or severe neglect is unfounded, or 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.<sup>31</sup> Except as provided in paragraph below, reimbursement for this activity includes but is not limited to: assessing the nature and seriousness of the known or suspected abuse, review of the initial Suspected Child Abuse Report (Form 8572); conducting interviews of the victim(s) and parent(s) and any known suspect(s) and witness(es) in their spoken language when appropriate and/or available; gathering and preserving evidence including, but not limited to, where applicable, videotaping interviews, obtaining medical exams, mental health exams, autopsies, DNA samples and polygraph tests necessary to gather and preserve evidence to determine if child abuse is unfound or if not unfound, whether child abuse is inconclusive or substantiated; and preparing a report that will be retained in the files of the investigating agency”.

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<sup>31</sup> Penal Code section 11169(a) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916, § 27 (AB 1241); Stats. 2011, ch. 468, § 2 (AB 717)); Code of Regulations, Title 11, section 903; “Child Abuse Investigation Report” Form SS 8583.



***Reimbursement is not required in the following circumstances:***

i. Investigative activities conducted by a mandated reporter to complete the Suspected Child Abuse Report (Form SS 8572) pursuant to Penal Code section 11166(a).

ii. In the event that the mandated reporter is employed by the same child protective agency required to investigate and submit the “Child Abuse Investigation Report” Form SS 8583, or subsequent designated form, to the Department of Justice, pursuant to Penal Code section 11169(a), reimbursement is not required if the investigation required to complete the Form SS 8572 is also sufficient to make the determination required under section 11169(a), and sufficient to complete the essential information items required on the Form SS 8583, pursuant to Code of Regulations, title 11, section 903 (Register 98, No. 29).

iii. Investigative activities undertaken subsequent to the determination whether a report of suspected child abuse is substantiated, inconclusive, or unfounded, as defined in Penal Code section 11165.12, for purposes of preparing the Form SS 8583, ~~including the referral to a detective, the conduct of follow-up interviews, and the potential making of an arrest.~~

**2) Forward reports to the Department of Justice**

Prepare and submit 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, as defined in Penal Code section 11165.12. Unfounded or inconclusive 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.<sup>32</sup>

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<sup>32</sup> Penal Code section 11169(a) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916, § 27 (AB 1241); Stats. 2011, ch. 468, § 2 (AB 717)); Code of Regulations, Title 11, section 903; “Child Abuse Investigation Report” Form SS 8583.

This activity includes costs of preparing and submitting an amended report to DOJ, when the submitting agency changes a prior finding of substantiated to a finding of inconclusive or unfounded, or from inconclusive or unfounded to substantiated, or when other information is necessary to maintain accuracy of the CACI.

*Reimbursement is not required for the costs of the investigation required to make the determination to file an amended report.*

#### **4. Notifications Following Reports to the Child Abuse Central Index**

a. City and county police or sheriff's departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments shall:

1) 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.<sup>33</sup>

This activity includes, where applicable, completion of the Notice of Child Abuse Central Index Listing form (SOC 832), or subsequent designated form and where applicable sending the person listed in CACI with a "Request for Grievance Hearing" form (SOC 834).

*For law enforcement agencies only, this activity is eligible for reimbursement from July 1, 1999 until December 31, 2011, pursuant to Penal Code section 11169(b), as amended by Statutes 2011, chapter 468 (AB 717), which ends the mandate to report to DOJ for law enforcement agencies.*

2) 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

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<sup>33</sup> Penal Code section 11169(c) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916 (AB 1241)).

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.<sup>34</sup>

3) 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.<sup>35</sup>

4) 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 reports contained in the index from the Department of Justice when investigating a home for the placement of dependent children. The notification shall include the name of the reporting agency and the date of the report.<sup>36</sup>

b. City and county police or sheriff's departments, county probation departments if designated by the county to receive mandated reports, county welfare departments, county licensing agencies, and district attorney offices shall:

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<sup>34</sup> Penal Code section 11170 (Added by Stats. 1980, ch. 1071 § 4; amended by Stats. 1981, ch. 435, § 5; Stats. 1982, ch. 162, § 3; Stats. 1984, ch. 1613, § 3; Stats. 1985, ch. 1598, § 8.5; Stats. 1986, ch. 1496, § 3; Stats. 1987, ch. 82, § 4; Stats. 1989, ch. 153, § 2; Stats. 1990, ch. 1330 § 2 (SB 2788); Stats. 1990, ch. 1363, § 15.7 (AB 3532); Stats. 1992, ch. 163, § 113 (AB 2641); Stats. 1992, ch. 1338, § 2 (SB 1184); Stats. 1993, ch. 219, § 221.1 (AB 1500); Stats. 1996, ch. 1081, § 5 (AB 3354); Stats. 1997, ch. 842, § 6 (SB 644); Stats. 1997, ch. 843, § 5 (AB 753); Stats. 1997, ch. 844, § 2.5 (AB 1065); Stats. 1999, ch. 475, § 8 (SB 654); Stats. 2000, ch. 916, 28 (AB 1241)).

<sup>35</sup> Penal Code section 11170(b) (Added by Stats. 1980, ch. 1071 § 4; amended by Stats. 1981, ch. 435, § 5; Stats. 1982, ch. 162, § 3; Stats. 1984, ch. 1613, § 3; Stats. 1985, ch. 1598, § 8.5; Stats. 1986, ch. 1496, § 3; Stats. 1987, ch. 82, § 4; Stats. 1989, ch. 153, § 2; Stats. 1990, ch. 1330 § 2 (SB 2788); Stats. 1990, ch. 1363, § 15.7 (AB 3532); Stats. 1992, ch. 163, § 113 (AB 2641); Stats. 1992, ch. 1338, § 2 (SB 1184); Stats. 1993, ch. 219, § 221.1 (AB 1500); Stats. 1996, ch. 1081, § 5 (AB 3354); Stats. 1997, ch. 842, § 6 (SB 644); Stats. 1997, ch. 843, § 5 (AB 753); Stats. 1997, ch. 844, § 2.5 (AB 1065); Stats. 1999, ch. 475, § 8 (SB 654); Stats. 2000, ch. 916, 28 (AB 1241)).

<sup>36</sup> *Ibid.*

Obtain the original investigative report from the agency that submitted the information to the CACI pursuant to Penal Code section 11169(a), and objectively review the report, when information regarding an individual suspected of child abuse or neglect, or an instance of suspected child abuse or neglect, is received from the CACI while performing existing duties pertaining to criminal investigation or prosecution, or licensing, or placement of a child.<sup>37</sup>

**Reimbursement for this activity does not include investigative activities conducted by the agency, either prior to or subsequent to receipt of the information that necessitates obtaining and reviewing the investigative report.**

c. City and county police or sheriff's departments, county probation departments, and county welfare departments 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.<sup>38</sup>

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<sup>37</sup> Penal Code section 11170(b)(6) (Stats. 2000, ch. 916 (AB 1241)); now subdivision (b)(10), as amended by Statutes 2012, chapter 848 (AB 1707).

<sup>38</sup> Penal Code section 11170(c) (Added by Stats. 1980, ch. 1071 § 4; amended by Stats. 1981, ch. 435, § 5; Stats. 1982, ch. 162, § 3; Stats. 1984, ch. 1613, § 3; Stats. 1985, ch. 1598, § 8.5; Stats. 1986, ch. 1496, § 3; Stats. 1987, ch. 82, § 4; Stats. 1989, ch. 153, § 2; Stats. 1990, ch. 1330 § 2 (SB 2788); Stats. 1990, ch. 1363, § 15.7 (AB 3532); Stats. 1992, ch. 163, § 113 (AB 2641); Stats. 1992, ch. 1338, § 2 (SB 1184); Stats. 1993, ch. 219, § 221.1 (AB 1500); Stats. 1996, ch. 1081, § 5 (AB 3354); Stats. 1997, ch. 842, § 6 (SB

## 5. Record Retention

a. City and county police or sheriff's departments, and county probation departments 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 eight years (a higher level of service above the two-year record retention requirement pursuant to Gov. Code §§ 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.<sup>39</sup>

This activity includes retaining copies of the Suspected Child Abuse Report form SS 8572, received from a mandated reporter, and the Child Abuse Summary Report form SS 8583, with the original investigative report.

*Reimbursement is not required for the first two years of record retention required under prior law, but only for the eight years following.*

b. County welfare departments shall:

Retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice for a minimum of seven years (a higher level of service above the three-year record retention requirement pursuant to Welf. & Inst. Code, § 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.<sup>40</sup>

This activity includes retaining copies of the Suspected Child Abuse Report form SS 8572, received from a mandated

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644); Stats. 1997, ch. 843, § 5 (AB 753); Stats. 1997, ch. 844, § 2.5 (AB 1065); Stats. 1999, ch. 475, § 8 (SB 654); Stats. 2000, ch. 916, 28 (AB 1241)).

<sup>39</sup> (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2001, ch. 133 (AB 102); Stats. 2004, ch. 842 (SB 1313); Stats. 2011, ch. 468 (AB 717)).

<sup>40</sup> (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241)).

reporter, and the Child Abuse Summary Report form SS 8583, with the original investigative report.

***Reimbursement is not required for the first three years of record retention required under prior law, but only for the seven years following.***

#### **6. Due Process Procedures Offered to Person Listed in CACI**

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

Provide due process reasonably necessary to comply with federal due process procedural protections under the 14th Amendment that must be afforded to individuals reported to the DOJ's Child Abuse Central Index. This reimbursable activity includes a hearing before the agency that submitted the individual's name to CACI and where applicable, reviewing the filed "Request for Grievance Hearing" form (SOC 834) and pertinent investigative files and where the aggrieved person is accompanied by an attorney, the costs of legal representation for the city and county law enforcement agencies, county welfare departments, and county probation departments are reimbursable.

This activity includes any due process procedures available to persons listed in the CACI prior to the enactment of Statutes 2011, chapter 468.

Reimbursement is not required for a hearing meeting the requirements of due process if a court of competent jurisdiction has determined that child abuse has occurred, or while the allegation is pending before a court.<sup>41</sup>

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<sup>41</sup> (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468 (AB 717)); *Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170; *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.

**REVIEW OF COMMISSION STAFF'S PARAMETERS AND GUIDELINES  
INTERAGENCY CHILD ABUSE AND NEGLECT INVESTIGATION REPORTS**

**TABLE OF EXHIBITS**

**Volume One**

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# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT



## Review of Commission's Proposed Parameters and Guidelines Interagency Child Abuse and Neglect Investigation Reports Program

### 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, 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 32 years of law enforcement experience, including more than 25 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 conducted over 1,500 ICAN child abuse investigations and supervised over 5000 cases with the Los Angeles County Sheriff's Department.

I declare that I have co-authored 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).

I declare that I have lectured for the California Sexual Assault Investigators Association, the American Prosecutors Research Institute, Childhelp USA, USC's Delinquency Control Institute, California Sexual Assault Investigators Association (CSAIA), The Chicago School of Professional Psychology and Children's Institute International.

I declare that I have developed and coordinated the law enforcement curriculum for Los Angeles County's Department of Children and Family Services' Bureau of Child Protection Inter-Agency Investigative Academy.

I declare that it is my information and belief that specialized training is necessary to ensure that ICAN's comprehensive child abuse referral assessments, investigations



and reports are completed in a timely manner and in accordance with DOJ's -2- requirements.

I declare that it is my information and belief that specialized ICAN training be performed annually, so that new ICAN staff can be promptly trained and deployed.

I declare 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."

I declare that it is my information and belief that the omission of one or more ICAN investigation activity 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.

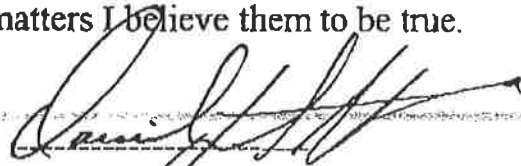
I declare that it is my information and belief that the omission of one or more ICAN investigation activities could result in a finding of insufficient evidence of abuse and that further investigation could provide sufficient evidence, thereby avoid listing an innocent person as a 'suspect' in the CACI.

I declare that it is my information and belief that gathering and preserving evidence includes, but is not limited to medical exams to determine if the child was sexually and/or physically abused, autopsies to determine if a child's death was the result of child abuse, DNA and polygraph testing to determine if a person is a reportable suspect, and videotaping interviews for subsequent evidentiary examination.

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.

April 4, 2013, Whittier, CA  
Date and Place Los Angeles County

  
Signature



# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT



## Review of Commission's Proposed Parameters and Guidelines Interagency Child Abuse and Neglect Investigation Reports (ICAN) Program

### **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 reimbursement provisions in the Commission on State Mandates (Commission) staff proposed ICAN parameters and guidelines (Ps&Gs) issued on March 12, 2013.

I declare that I have revised unclear language in Commission staff's ICAN Ps&Gs and have incorporated my recommended language changes in their Ps&Gs Section IV. REIMBURSABLE ACTIVITIES.

For example, I declare that Commission staff propose a reimbursable activity of "dispatching an employee to conduct initial interviews with parents, victims, suspects, or witnesses".

I declare that it is my information and belief that Commission's staff interview reimbursement provision is misleading as it may be construed that only the dispatching activity is reimbursable.

I declare that it is my information and belief that reimbursement for interviews should be clearly and concisely stated as reimbursement for "interviews of parents, victims, suspects, or witnesses"

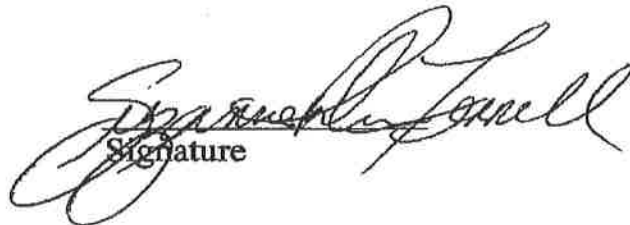
I declare that it is my information and belief that the ICAN Ps&Gs should include reimbursement for reasonably necessary and reimbursable activities omitted in staff's ICAN Ps&Gs.

For example, it is my information and belief that it is reasonably necessary for the interviewer to speak the language of the interview(es), so reimbursement is required for "interviews of parents, victims, suspects, or witnesses in their spoken language".

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.

4/4/13 Commerce, CA  
Date and Place

  
Signature



# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT



## Review of Commission's Proposed Parameters and Guidelines Interagency Child Abuse and Neglect Investigation Reports (ICAN) Program

### Declaration of Carlos Marquez

Carlos Marquez makes the following declaration and statement under oath:

I, Carlos Marquez, a Lieutenant with the Los Angeles County Sheriff's Department, am the coordinator for due process hearings requested by those persons who maintain that the Sheriff's Department erroneously reported them to the State Department of Justice (DOJ) for inclusion in the Central Child Abuse Index (CACI).

I have read the portion of the Commission on State Mandates (Commission) proposed parameters and guidelines (Ps&Gs) which states, on page 13, that due process procedures are necessary and that their costs are reimbursable as follows:

“City and county police or sheriff's departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments shall:

Provide due process reasonably necessary to comply with federal due process procedural protections under the 14th Amendment that must be afforded to individuals reported to the DOJ's Child Abuse Central Index. This activity includes a hearing before the agency that submitted the individual's name to CACI. This activity includes any due process procedures available to persons listed in the CACI prior to the enactment of Statutes 2011, chapter 468.

Reimbursement is not required for a hearing meeting the requirements of due process if a court of competent jurisdiction has determined that child abuse has occurred, or while the allegation is pending before a court.

Authority: 26 (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468 (AB 717)); *Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170; *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.”

I declare that it is my information and belief that the costs of due process procedures established and maintained by the Sheriff's Department, which are detailed in the attached Child Abuse Central Index Process, SVB Bureau Order #0023, reimbursable as the activities detailed in the attached Sheriff's procedures are reasonably necessary in complying with federal due process procedural protections under the 14th Amendment that must be afforded to individuals reported to the DOJ's Child Abuse Central Index.

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 matters which are stated as information and belief, and as to those matters I believe them to be true.

4-4-13 Whittier, CA.  
L.A. County  
Date and Place

  
Signature

LOS ANGELES COUNTY SHERIFF-S DEPARTMENT  
DETECTIVE DIVISION

SPECIAL VICTIMS BUREAU



<b>Bureau Order No:</b>	0023
<b>Subject:</b>	CHILD ABUSE CENTRAL INDEX PROCESS

<b>Effective Date</b>	April 2007	<b>Last Date Reviewed</b>	Mar 2013	<b>Last Date Revised</b>	Mar 2013
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**PURPOSE:**

To ensure that the mandated processing and handling of all documentation between Special Victims Bureau (SVB), California Department of Justice (CA DOJ), and concerned parties, are performed appropriately as to the placement of individuals in the Child Abuse Central Index (CACI). It further ensures that the review process and hearing requests are conducted according to current California statute.

**POLICY :**

A. At the conclusion and inactivation of an investigation conducted by a detective of Special Victims Bureau, he/she shall complete the Child Abuse or Severe Neglect Indexing Form BCIA 8583 (Attachment # 1) when applicable. On form BCIA 8583, the classification of Substantiated (Penal Code section 11165.12 b), or Inconclusive (Penal Code section 11165.12 c) shall be appropriately marked by the detective based on all the facts and evidence obtained at the time the case is closed.

B. A professional staff member of Special Victims Bureau shall submit the Child Abuse or Severe Neglect Indexing Form (BCIA 8583) to the CA DOJ for appropriate processing. Under current California statute the following applies:

A suspect listed in the category of Substantiated is entered into the Child Abuse Central Index (CACI) permanently.

A suspect listed in the category of Inconclusive is entered into CACI for

Pursuant to Penal Code section 11169(b), a notification letter to the concerned individual shall be sent to him/her informing him/her that he/she has been reported to the CA DOJ to be placed in the CACI, (Attachment # 2).

- a. The notification letter informs the individual about their right to request a review of the case, their right to receive redacted reports, and their right to provide any documentation that they feel should be included in the review process, if they believe the classification should be unfounded.
  - b. If the individual is under the age of 18, the letter is addressed to the parent or legal guardian of the subject and they are to inform the subject of the contents of the letter.
  - c. The notification letter instructs the individual to address their request for review to the operations lieutenant. The individual making the request for review of his/her case can make this request at anytime.
- C. When an individual makes a request to have their name removed from the CACI and/or requests a copy of redacted reports from their case file, the following shall occur:
- a. A copy of the redacted reports will be sent to that individual, upon verification of his/her identity, no later than **10** business days of receipt of their letter.
- D. The operations lieutenant shall conduct a complete and thorough review of all materials of the case within **45 days** of receipt of the written request.
- E. The operations lieutenant shall submit the file with his/her findings and recommendations to the unit commander for approval. After a complete and thorough review of the file, if the unit commander concurs with the findings and recommendations of the operations lieutenant, he will approve the case file. A letter as to the findings will be sent to the concerned individual (Attachment # 3). The letter shall be issued to the individual no later than **five (5)** days of the review by the unit commander.

If the unit commander does not concur with the findings and recommendations of the operations lieutenant, they will discuss the case in detail in order to finalize the findings and recommendations.

- I. Pursuant to Penal Code section 11169c and 11170a, SVB will retain all investigative reports that result in a report filed with the CA DOJ for the same period of time that the information is required to be maintained in the CACI. The CACI case file will be retained for the same period of time.

Attachments

California Department of Justice form BCIA 8583

Notification Letter

CACI Review Letter

Reviewed and approved by:

\_\_\_\_\_  
Robert C. Esson, Captain  
Special Victims Bureau

\_\_\_\_\_  
Date





County of Los Angeles  
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

425 Shatto Place, Los Angeles, California 90020  
(213) 351-5602

PHILIP L. BROWNING  
Director

Board of Supervisors  
GLORIA MOLINA  
First District  
MARK RIDLEY-THOMAS  
Second District  
ZEV YAROSLAVSKY  
Third District  
DON KNABE  
Fourth District  
MICHAEL D. ANTONOVICH  
Fifth District

Review of Commission's Proposed Parameters and Guideline  
Interagency Child Abuse and Neglect Investigation Reports Prog

**Declaration of John E. Langstaff**

John E. Langstaff makes the following declaration and statement under oath:

I, John E. Langstaff, a Children Services Administrator II with the Los Angeles County Department of Children and Family Services (DCFS), Business and Information Systems Division, am the Program Manager for the Electronic Suspected Child Abuse Report System (E-SCARS), which is a computerized child abuse and neglect cross report system developed in Los Angeles County as a joint DCFS-Sheriff's Department-District Attorney project. E-SCARS links all 46 law enforcement agencies and the District Attorney in a single computerized cross report system.

I declare that I have a Master of Science degree in psychology, and have worked for DCFS for 25 years, six months. I was a line Emergency Response Children's Social Worker (CSW) for nine years, investigating allegations of child abuse and neglect. I have worked in policy, DCFS administration, at the Inter-Agency Council on Child Abuse and Neglect (ICAN), managed ICAN's National Center on Child Fatality Review (NCFR), and at DCFS training in my 25+ years with DCFS and have been the E-SCARS Manager at the DCFS Business and Information Systems Division since December of 2008.

I declare that I have made numerous public presentations regarding child abuse and neglect reporting and assessment on behalf of DCFS, have been a presenter on "Use of Technology in Child Abuse Investigation, Assessment and Prosecution" at ICAN's annual Nexus Conference (2010), am the current Chair of the ICAN Data Sharing Committee, and further that I was awarded the County Superstar Award for my work as the E-SCARS manager.

I declare that I have been the Project and Program Manager of the E-SCARS project during its major development, its production implementation countywide, during subsequent enhancements, and that I continue to be the Program Manager. In my role I

*"To Enrich Lives Through Effective and Caring Service"*

co-lead an E-SCARS Steering Committee, I arrange and lead annual all-departments E-11-SCARS law enforcement meetings, and provide training and other assistance as needed.

I declare that I have reviewed reimbursement provisions in the Commission on State Mandates (Commission) staff analysis and proposed Ps&Gs for the ICAN program and note that on pages 25-27 Commission staff deny reimbursement "... to periodically develop, update or obtain computer software and obtain computer equipment necessary for ICAN cross-reporting ...".

I declare that it is my information and belief that ICAN cross-reporting allows written reports transmission by "fax or electronic transmission" and that electronic transmission includes transmission using computers and specialized software.

I declare that it is my information and belief that electronic transmission using computers and specialized software is encompassed by the "electronic transmission" option and are in our jurisdiction a more reliable method of cross-reporting than the one relying entirely on fax machines for the following reasons:

1. Fax machines must constantly be checked to ensure that the phone line is plugged in and is functional, that the machine is turned on, that sufficient paper is available and that it is not jammed, unlike computerized systems.
2. Fax machines require staff to receive and distribute hard copies of written reports who are not at their workplace 24 hours a day, 7 days a week (24/7) while computerized systems are available 24/7.
3. Agencies (and there are 46 law enforcement agencies in our county) may change fax numbers, and the agency must communicate such changes to the Child Protection Hotline to ensure proper transmission and receipt of the fax.
4. The E-SCARS system, using computers, also has a database to track or produce reports regarding transmission, receipt of the SCAR, agency personnel assigned to investigate, agency findings, comments, report numbers, assigned District Attorney staff and court case numbers, assigned DCFS social workers, a tracked log of all activities by User on the system, and many more features. These features are not available via fax based cross report systems, and each feature of the E-SCARS computer based system collectively helps to assure as close to 100% compliance with the cross reporting statute as is possible.

Therefore, I declare that it is my information and belief that ICAN cross-reporting reimbursements should include those for computerized systems which are reasonably necessary in providing child abuse referrals and reports in a timely, reliable, and cost-efficient manner.

I declare that the California Department of Justice (DOJ) Form SS 8583, as revised in 12-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."

I declare that it is my information and belief that the omission of one or more ICAN investigation activity 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.

I declare that it is my information and belief that the omission of one or more ICAN investigation activities 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 Child Abuse Central Index (CACI).

I declare that is my information and belief that the processing of gathered evidence includes but is not limited to medical exams to determine if the child was sexually and/or physically abused, as well as the costs of autopsies to determine if a child's death was the result of child abuse.

I declare that the Los Angeles County Department of Children and Family Services (DCFS) routinely gathers, preserves and evaluates forensic evidence from medical and other tests ad examinations required to complete mandated fields in DOJ's Form SS 8583, as revised in June 2005 and I have attached a copy of DCFS's policy Procedural Guide 0600-500.0, Utilization of Medical HUBS, dated 7-17-2012

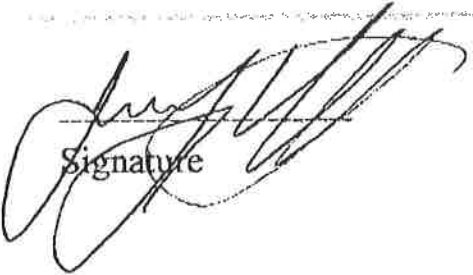
Therefore, I declare that it is my information and belief that DCFS costs of forensic child abuse tests and exams which are necessary to complete the mandated fields in DOJ's Form SS 8583, as revised in June 2005, are reimbursable.

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 matters which are stated as information and belief, and as to those matters I believe them to be true.

4-9-2013 @ NORWALK, CA

Date and Place

  
Signature

## F O R Y O U R I N F O R M A T I O N

Issue 06-15

Date: 02/21/06

### THE NEW MEDICAL HUB SYSTEM IS NOW OPERATIONAL COUNTYWIDE

Effective immediately, three Medical Hubs are now available to provide Initial Medical Exams and the forensic exams for DCFS-served children who are newly detained. The remaining three Medical Hubs will provide forensic exams only, but are scheduled to conduct Initial Medical Exams for newly detained children at a later date. (See schedule on Pages 2 and 3 of this FYI).

#### DEFINITIONS:

Initial Medical Examination: The State-required medical examination for all DCFS-placed children. Initial medical examinations are to be conducted within the first 72 hours of initial placement for high risk children and children 0-3 years of age; all other children are to have their Initial Medical Examination within the first 30 days of initial placement. The Initial Medical Exam is routine and preventive, and it is the first of the periodic medical exams that must occur when a child is under DCFS supervision. Please refer to the DCFS 561(a), Medical Examination form available on LA Kids or in your office stock room.

Forensic Examination: A physical exam to detect and treat child abuse injuries and neglect. A forensic exam is not required for all DCFS children and primarily, forensic exams are completed when there are allegations of physical or sexual abuse. A forensic exam is generally requested immediately and should take place within 72 hours if possible. Parental consent or a Court Order are not necessary for a forensic exam to be completed when the child has been taken into protective custody (detained) and a forensic specialist deems it is appropriate

#### MEDICAL HUBS PROVIDING INITIAL MEDICAL EXAMS AND FORENSIC EXAMS:

<u>Medical Hubs</u>	<u>SPA</u>	<u>DCFS Offices</u>
LAC+USC Medical Center <i>Violence Intervention Program</i>	3, 4 & 7	ERCP Belvedere Glendora/El Monte Metro North Pasadena Pomona
King/Drew Medical Center <i>Multi-Service Hub</i>	6 & 7	Century Compton Hawthorne Santa Fe Springs Wateridge
Children's Hospital Los Angeles* <i>Foster Care Hub</i>	2 & 5	West Los Angeles North Hollywood (backup)

*Children in Specialized Programs are served by all Medical Hubs.*

\*Although Children's Hospital Los Angeles (CHLA) is a non-public entity, it is operational to provide services to DCFS supervised children.



If you have any questions regarding this release please e-mail your question to:

[Policy@dcfs.co.la.ca.us](mailto:Policy@dcfs.co.la.ca.us)

Clerical Handbook: <http://198.51.213.151/Policy/Hndbook%20Clerical/Default.htm>

Child Welfare Services Handbook: <http://198.51.213.151/Policy/Hndbook%20CWS/default.htm>

FYI's: <http://dcfs.co.la.ca.us/Policy/FYI/TOCFYI.HTM>

All DCFS-supervised children placed in the areas served by the LAC+USC Medical Center, King/Drew Medical Center, or Children's Hospital Los Angeles Medical Hubs are to be taken to the Medical Hub specified for their area in the above table, for the Initial Medical Examination or a forensic exam.

For initial placements on newly detained children, the CSWs writing the Detention Report shall request a Court order for the child to be taken to a Medical Hub for the Initial Medical Exam. CSWs may request the Court to order a child to the Medical Hubs in any type of out-of-home placement.

**NOTE:** CSWs should not request the Court to order a child to receive his/her Initial Medical Exam, when the Medical Hub designated for the child's placement area is not presently providing Initial Medical Exams (see list below). However, if the Medical Hub is not currently providing the service of an Initial Medical Exam, but the CSW believes it is in the best interest for the child to have an Initial Medical Exam at a Medical Hub rather than having the caregiver take the child to his/her current provider, the CSW has the discretion of asking the Court to order the child to go to a Medical Hub for an Initial Medical Exam. If indeed a CSW makes this request to the Court, and if the Court then makes the order, the result would be that the caregiver would have to take the child to a Hub not in geographical proximity to the caregiver's home, or the CSW could volunteer to take the child for the Initial Exam.

CSWs are to use the following sample wording in their Court reports when requesting that the Court order a child to a Medical Hub for the Initial Medical Examination.

#### Initial Medical Exam

"We respectfully request that the Court make the following order:

Medical Hub services are ordered for \_\_\_\_\_. Services shall begin within thirty days of the Court's Order and shall include an initial medical evaluation, required follow-up and ongoing routine care by the Medical Hub or Medical Hub-referred providers. Information regarding these medical services shall be provided to DCFS for inclusion in the Court report. DCFS shall submit the Medical Hub Referral form to the appropriate Medical Hub and provide a copy of the completed referral form to the Court."

If the Court orders a child to be referred to a Medical Hub for the Initial Medical Exam the order will apply to licensed foster parents, relative caregivers, non-relative extended family members, Foster Family Agencies, as well as children placed in group homes. The CSW shall provide the caregiver with a copy of the Court order.

At the time of initial placement, it is the responsibility of the CSW who is placing the child, to verbally inform the caregiver of the new requirement to utilize the Medical Hubs, and to provide the caregiver with written notification via the Medical Hub Notice to Caregivers form included in the Placement Packet. DCFS has notified caregivers of this new resource through a mailing.

Once the CSW reviews the Medical Hub Notice to Caregiver form with the caregiver, the CSW, or the PHN, must complete a Medical Hub Referral form, and fax it to the appropriate Medical Hub. Please refer to the Medical Hub Referral form posted on LA Kids.

#### **MEDICAL HUBS PROVIDING FORENSIC EXAMINATIONS ONLY:**

Medical Hubs currently providing only forensic exams, will provide Initial Medical Exams **at later dates**. The scheduled dates for implementation of the Initial Medical Exams are noted below. Until these Medical

Hubs begin providing Initial Medical Exams, the child should receive the Initial Medical Exam from a health care provider currently utilized by the caregiver.

All DCFS-supervised children placed in the areas served by the High Desert Health System, Olive View Medical Center, and Harbor-UCLA Medical Center are to be taken to the Medical Hub specified for their area in the table below, for a forensic exam.

<u>Medical Hubs</u>	<u>SPA</u>	<u>DCFS Offices</u>	<u>Target Date for Initial Exam Implementation</u>
High Desert Health System	1	Palmdale Lancaster	April-May 2006
Olive View-UCLA Medical Center	2	North Hollywood Santa Clarita	April-May 2006
Harbor-UCLA Medical Center	8	Lakewood Torrance	April-May 2006

Children in Specialized Programs are served by all Medical Hubs.

**Related forms located on LA kids:**

- DCFS 561 (a), Medical Examination
- Medical Hub Notice to Caregivers (English and Spanish versions)
- Medical Hub Referral

**Medical Hubs for the Department of Children and Family Services  
Initial Medical Examinations and Forensic Examinations**

Facility Name and Address	Hours	Services Available	Medical Director	Contact Information
High Desert Health System North County SCAN Clinic 44900 N. 60 <sup>th</sup> Street West Lancaster, CA 93536 (661) 945-8353 FAX (661) 945-8284	Mondays - Fridays 8:00 a.m. – 4:30 p.m.	Forensic physical and sexual abuse evaluations and mental health screening only	Ramasamy Mahadevan, MD	Karen Peterson (661) 945-8493  Barbara Jacoby (661) 945-8353
Olive View-UCLA Medical Center SCAN Clinic Room 2A221 14445 Olive View Dr. Sylmar, CA 91342 (818) 364-4680 FAX (818) 364-4682	Monday – Friday 8:00 a.m. – 4:30 p.m. After Hours use pediatric emergency room	Forensic physical and sexual abuse evaluations and mental health screening only	Rona Molodow, MD	Nadine Miranda (818)364-4680
Children's Hospital Los Angeles Foster Care Hub Foster Care Clinic 5000 Sunset Blvd., 7 <sup>th</sup> Floor Los Angeles, CA 90027 (323) 669-2350 (Ask for Intake) FAX (323) 671-3843	Initial Medical Exam: Mon., Wed, & Fri. 9:00 a.m. – 12:00p.m.	Medical exam and mental health screening.	Suzanne Roberts, MD	To Be Determined
Forensic: 4650 Sunset Blvd., 1 <sup>st</sup> Floor Los Angeles, CA 90027 (323) 660-2450, Ext. 4977 FAX (323) 671-3648	Monday – Friday 1:00p.m. – 5:00p.m.	Forensic physical and sexual abuse	Karen K. Imagawa, MD	
Five Specialty Mental Health Treatment Programs 5000 Sunset Blvd. Los Angeles 90027 (323) 669-2350 FAX (323) 671-3843	Monday – Friday 8:00 a.m. – 5:00p.m.	a) Intervention for Victims of Abuse & Trauma b) Assessment, Intervention & Linkage for Young Children c) Home-based Assessment & Intervention d) Assessment & Intervention for School-aged Children e) Assessment & Intervention for Adolescents & Transitional Aged Youth	Brad Hudson, Psy.D	
a) Project Heal b) Early Childhood Program c) Corazon de La Familia d) Child and Family Program e) Adolescents & Transitional Aged Youth				
LAC+USC Medical Center - Violence Intervention Program (VIP)	Monday – Friday 8:00 a.m. – 4:00 p.m. After Hours: (323) 226-3601	Forensic physical and sexual abuse evaluations	Astrid Heger, MD	Janice Woods, MD (323) 226-3961
a) Forensic Medical Clinic (VIP) LAC+USC Medical Center 1240 N. Mission Road, Trailer- II Los Angeles, CA 90033 (323) 226-3961				
b) Community-Based Assessment and Treatment (CATC) Program North Hall (e.g. Hub Clinic) 1739 Griffin Avenue Los Angeles, CA 90031 (323) 226-5086 FAX (323) 226-5134 For Initial Medical Exam. Call for forensic exam	Monday – Friday 8:00 a.m. – 5:00 p.m.	Physical and mental health assessments Ongoing physical and mental health services for children in foster care	Janet Arnold, MD	Jorge Fuentes, MD (323) 226-5086
King/Drew Medical Center Multi-Service HUB Jaron Gammons Hub Building 1721 East 120 <sup>th</sup> Street Los Angeles, CA 90059 (310) 668-6400 FAX (310) 223-0728	Monday – Friday 8:00 a.m. – 4:30 p.m. After Hours use pediatric emergency room	Forensic physical and sexual abuse evaluations and mental health screening and assessments	Xylina Bean, MD	Kerry English, MD (310) 668-4872
Harbor-UCLA Medical Center Child Crisis Center Building N-26 1000 W. Carson Street Torrance, CA 90509 (310) 222-3567 FAX (310) 320-7849	Monday – Friday 8:00 a.m. – 5:00 p.m. After Hours use pediatric emergency room	Forensic physical and sexual abuse evaluations and mental health screenings only	Sara Stewart, MD	Rosa Beaumont (310) 222-3567





**County of Los Angeles  
DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

425 Shatto Place, Los Angeles, California 90020  
(213) 351-5602

PHILIP L. BROWNING  
Director

FESIA A. DAVENPORT  
Chief Deputy Director

Board of Supervisors  
GLORIA MOLINA  
First District  
MARK RIDLEY-THOMAS  
Second District  
ZEV YAROSLAVSKY  
Third District  
DON KNABE  
Fourth District  
MICHAEL D. ANTONOVICH  
Fifth District

**Review of Commission's Proposed Parameters and Guidelines Interagency Child Abuse and Neglect Investigation Reports (ICAN) Program**

**Declaration of Francesca LeRúe**

Francesca LeRúe makes the following declaration and statement under oath:

I, Francesca LeRúe, the Acting Division Chief of the Los Angeles County Department of Children and Family Services (DCFS), Risk Management Division, am the manager who oversees the section responsible for conducting due process hearings requested by those persons who maintain that DCFS erroneously reported them to the State Department of Justice (DOJ) for inclusion in the Central Child Abuse Index (CACI).

I have read the portion of the Commission on State Mandates (Commission) proposed parameters and guidelines (Ps&Gs) which states, on page 13, that due process procedures are necessary and that their costs are reimbursable as follows:

“City and county police or sheriff’s departments, county probation departments if designated by the county to receive mandated reports, and county welfare departments shall:

Provide due process reasonably necessary to comply with federal due process procedural protections under the 14th Amendment that must be afforded to individuals reported to the DOJ’s Child Abuse Central Index. This activity includes a hearing before the agency that submitted the individual’s name to CACI. This activity includes any due process procedures available to persons listed in the CACI prior to the enactment of Statutes 2011, chapter 468.

*“To Enrich Lives Through Effective and Caring Service”*

April 9, 2013  
Declaration of Francesca LeRúe  
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Reimbursement is not required for a hearing meeting the requirements of due process if a court of competent jurisdiction has determined that child abuse has occurred, or while the allegation is pending before a court.

Authority: 26 (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241); Stats. 2011, ch. 468 (AB 717)); *Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170; *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.”

I have read DCFS Procedural Guide 0070-548.18 (CHILD ABUSE CENTRAL INDEX (CACI) REVIEW HEARINGS), and a true and correct copy of that document is attached to this declaration and incorporated by reference herein.

DCFS Procedural Guide 0070-548.18 (CHILD ABUSE CENTRAL INDEX (CACI) REVIEW HEARINGS) describes how DCFS conducts CACI grievance review hearings.

I declare that it is my information and belief that the costs of due process procedures established and maintained by DCFS, which are detailed in the attached DCFS Procedural Guide 0070-548.18 (CHILD ABUSE CENTRAL INDEX (CACI) REVIEW HEARINGS), are reimbursable because the activities detailed in the DCFS Guide are reasonably necessary in complying with federal due process procedural protections under the 14th Amendment that must be afforded to individuals reported to the DOJ's Child Abuse Central Index.

By way of illustration, California Department of Social Services ("CDSS") issued regulations which govern CACI review hearings and with which my staff, and other DCFS employees are required to comply. California Department of Social Services Manual regulation 31-020.6 requires that our CACI grievance review hearings be conducted in a certain manner. Among other things, each party and their attorney or representative are authorized to be present. (California Department of Social Services Manual regulation 31-020.64.) Not infrequently, aggrieved parties do retain lawyers who must then be allowed to be present during the CACI grievance review hearing. When the aggrieved party brings a lawyer, the other party, namely the county's decision-making social worker, will request that a lawyer appear and assist them at the grievance review hearing. That county lawyer must also be allowed to attend the hearing. Minimum standards of due process prevent the lawyer who advised the initial decision maker and who represents them at the grievance hearing from also serving as the advisor to the review agent; consequently, a separate County lawyer must also be designated to advise the review agent. (See e.g. *Nightlife Partners v. Beverly Hills*, 108 Cal. App. 4<sup>th</sup>

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81.) Without such an arrangement, we would not meet the minimum requirements of due process.

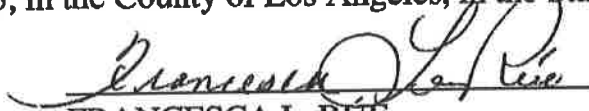
I have read State of California Health and Human Services Agency form SOC 834, and a true and correct copy of that document is also attached to this declaration and incorporated by reference herein.

Form SOC 834 was developed by the State of California Health and Human Services Agency so that it could be used by persons who wish to request a grievance review hearing to challenge their referral to the Child Abuse Central Index. Section C provides space for the aggrieved party's attorney or representative to list his or her name, address and telephone number. This further illustrates that the State allows aggrieved parties to bring attorneys to the grievance review hearing, thereby necessitating involvement by lawyers representing the County.

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 matters, which are stated as information and belief, and as to those matters I believe them to be true.

Executed this 9<sup>th</sup> day of April 2013, in the County of Los Angeles, in the State of California.

  
FRANCESCA LeRÚE  
DECLARANT

## Procedural Guide

0070-548.18

### CHILD ABUSE CENTRAL INDEX (CACI) REVIEW HEARINGS

Date Issued: 03/05/12

New Policy Release

Revision of Existing Procedural Guide 0070-548.18, Notice of Report to the Child Abuse Central Index, dated 09/29/10.

**Revision Made:** .NOTE: Current Revisions are Highlighted

This Procedural Guide has been updated to reflect the passage of AB 717, which made significant changes to the reporting requirements to the Child Abuse Central Index (CACI). Effective January 1, 2012, CSWs will be required to forward to the Department of Justice (DOJ) the BCIA 8583 **ONLY** when a child abuse/neglect investigation is concluded with a **substantiated finding** in the categories as designated on the BCIA 8583. Referrals with an **inconclusive allegation conclusion are no longer reportable to the DOJ**. Also added that CSWs are to contact their out stationed County Counsel when documents and other evidence is requested that support the CACI submission to DOJ and when a CSW is required to attend a grievance hearing.

Cancels: None

#### DEPARTMENTAL VALUES

This Procedural Guide supports the Department's efforts to provide safety for children.

#### WHAT CASES ARE AFFECTED

This Procedural Guide is applicable to all new and existing referrals and cases.

#### OPERATIONAL IMPACT

The Penal Code requires that all reports of abuse, severe neglect, and exploitation that are investigated by a social worker and found to be substantiated, be reported to the Department of Justice. The Department of Justice does not require notice when the

allegations are of general neglect or when an investigation concludes the allegations are unfounded or inconclusive. The law further requires our Department to notify the known or suspected child abuser when his or her name is reported to the Department of Justice. The Department of Justice will then submit these names to the Child Abuse Central Index.

Previously, in response to *Burt v. County of Orange*, DCFS established a process for individuals, who believe that DCFS incorrectly reported them to the Department of Justice or that their name was listed on the Child Abuse Central Index in error, to challenge DCFS' action. However, because of the *Gomez v. Saenz* lawsuit, that process has been revamped to meet the requirements of the lawsuit settlement.

The *Gomez v. Saenz* lawsuit originated in July 2004, and was settled on October 9, 2007. The lawsuit addresses the rights of individuals whose names either are or will be listed on the CACI. Based on the settlement agreement, beginning March 1, 2008 individuals are to be provided appropriate notice of their CACI listing as well as the right to appeal the listing via an administrative grievance review hearing. In addition, the settlement allows individuals, who may not have received a notice of their right to appeal prior to March 1, 2008, to challenge their listing on the CACI.

The grievance officer conducting these grievance hearings shall be:

- A staff or other person not involved in the investigation of the alleged child abuse or severe neglect.
- Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the investigation of the alleged abuse or severe neglect unless the grievance officer is the Director or Deputy Director of DCFS.
- Knowledge in the field of child abuse or neglect investigations and capable of objectively reviewing the complaint.

DCFS' Chief Grievance Review Officer of the Appeals Management Section has been designated to process these requests and conduct the review hearings.

**Also, the CSW who conducted the investigation into the suspected child abuse or severe neglect shall be present at the grievance hearing, if that person is employed by DCFS and is available to participate in the grievance hearing. For the purposes of this paragraph, a conflict in work assignments shall not render the CSW who conducted the investigation unavailable to participate in the hearing.**

For instructions on how to complete the BCIA 8583, see Procedural Guide 0070-458.17, Completion and Submission of the BCIA 8583, Child Abuse or Severe Neglect Indexing Form.

## Procedures

### A. WHEN: THE KNOWN OR SUSPECTED CHILD ABUSER CONTACTS THE CSW TO DISPUTE THE SUBMISSION OF HIS/HER NAME TO DEPARTMENT OF JUSTICE

#### CSW Completing the Investigation Responsibilities

1. Refer the caller to the SCSW responsible for the investigation. Discuss the dispute with that SCSW and contact the out stationed County Counsel regarding the dispute. If there is no out stationed County Counsel, contact CACI paralegals at (323) 526-6224 or (323) 526-6109.
2. Assist in preparation of the grievance request if assistance is requested by the complainant.
3. If contacted by the Chief Grievance Office to submit any documents and other evidence that support the CACI submission to DOJ, contact the out stationed County Counsel regarding the request, or if there is no out stationed County Counsel contact CACI paralegals at (323) 526-6224 or (323) 526-6109. **At no time shall records requests be handled by CSWs without the assistance of County Counsel.** See Procedural Guide 0500-501.10, Releasing DCFS Case Record Information.
4. When notified that your presence is required at a CACI grievance review hearing, contact the out stationed County Counsel to prepare for the hearing. If an out stationed County Counsel is not assigned to your office, contact CACI paralegals at (323) 526-6224 or (323) 526-6109 or contact Principal Deputy County Counsel Scott Miller at (661) 702-6256.

#### SCSW Responsibilities

1. If the known or suspected child abuser contacts the CSW to dispute the submission of his or her name to Department of Justice, discuss the dispute with the CSW responsible for the investigation.
2. Discuss the submission of the **SOC 832, SOC 833 and SOC 834** with the known or suspected child abuser. If (s)he is unsatisfied with the outcome of this discussion, advise him or her to submit a written request for a review to the Chief Grievance Review Officer at:

DCFS Appeals Management Section  
Attention: Chief Grievance Review Officer  
501 Shatto Pl., Suite 373  
Loa Angeles, Ca 90020

3. If contacted by the Chief Grievance Office to submit any documents and other evidence that support the CACI submission to DOJ, contact your out stationed County Counsel regarding the request, or if there is no out stationed County Counsel contact CACI paralegals at (323) 526-6224 or (323) 526-6109. **At no time shall records requests be handled by CSWs without the assistance of County Counsel.** See Procedural Guide 0500-501.10, Releasing DCFS Case Record Information.

#### **B. WHEN: CHIEF GRIEVANCE REVIEW OFFICER RECEIVES A REQUEST FOR GRIEVANCE HEARING**

An individual wishing to challenge his or her referral to the CACI may request a grievance hearing as follows.

1. The individual must submit a written and signed request for a grievance hearing.
2. The request for grievance shall set forth the facts, which the individual believes provides a basis for reversal of DCFS' finding of substantiated abuse.
3. The individual shall mail his or her request to DCFS within 30 calendar days of the date the notice and request for grievance was mailed to the individual as the perpetrator of the alleged abuse or serious neglect. An individual's failure to mail the request for grievance within the prescribed time frame shall constitute waiver of the right to a grievance.

Further, for individuals to whom *no prior notification* was mailed regarding his or her referral to the CACI, the individual shall file the request for grievance **within 30 calendar days** of becoming aware that he or she is listed on the CACI and/or becoming aware of the grievance process.

For purposes of this section, a complainant is deemed aware of the county action or finding when the county mails adequate notice to the complainant's last known address

**No grievance hearing shall be required when a court of competent jurisdiction (e.g. Dependency Court) has determined that the suspected abuse or severe neglect has occurred, or when the allegation of child abuse or severe neglect resulting in a referral to the CACI is pending before the court.**

In these cases, the Appeals Management Section Staff will place the initial grievance request on hold and track the results of the court's decision. If, however, the **court does not sustain** the petition, the individual would then have the opportunity to contest the listing and request a hearing within the timeframe allowed per grievance procedures.

In addition, the Gomez settlement permits DCFS to conduct an internal review of the case to address or rectify the matter identified in the request for grievance **prior** to the hearing. The DCFS Chief Grievance Review Officer may resolve a grievance at any time by modifying a finding of substantiated abuse or neglect to unfounded and notifying DOJ of the need to remove the individual from the CACI.

### **Chief Grievance Review Officer Section Staff Responsibilities**

1. Determine the following:

- a.) Was the SOC 834, *Request for Grievance Hearing*, submitted in a timely manner?;
- b.) Has any superior court found that the suspected abuse or severe neglect has occurred?;
- c.) Is the allegation of child abuse or severe neglect resulting in a referral to the CACI pending before a superior court?

If any of the above conditions exists, notify the requesting individual by letter that their request for a grievance hearing is being denied and, provide the reasons for the denial.

- 2. If the SOC 834 does not have all the necessary information, contact the individual and assist them in completing the SOC 834 correctly.
- 3. Determine if the matter identified in the request for grievance hearing can be rectified by a review of the case record. If it is determined that the finding of substantiated abuse or sever neglect **can be changed** to unfounded with such a review of the case record, proceed to Part D. of this Procedural Guide
- 4. If the SOC 834 has been submitted in a timely manner and contains the necessary information and it is determined that the matter **cannot be resolved** without a grievance hearing, proceed to Part C of this Procedural Guide.

### **C. WHEN: CONDUCTING A GRIEVANCE HEARING**

The individual requesting the grievance hearing may have an attorney or other representative present at the hearing to assist him or her. Pursuant to California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31Section 31-021.62, DCFS, The individual requesting the grievance hearing and his or her representatives, if any, shall be permitted to examine all records and evidence related to the county's investigative activities and investigative findings associated with the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law. Also, prior to communicating



with any attorney, or any other individual, claiming to speak on behalf of the aggrieved party, DCFS must get a copy of the signed authorization.

The grievance review hearing shall be conducted as follows:

The grievance hearing shall be, to the extent possible, conducted in a non-adversarial atmosphere.

Pursuant to California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31 Section 31-021.621, the County and individual requesting the grievance hearing shall make available for inspection all records and evidence related to the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law.

Each party and their attorney or representative shall be permitted to examine the documents and other evidence, which the opposing party intends to introduce at the grievance hearing. All relevant evidence, related to the original referral that prompted the CACI listing, whether inculpatory or exculpatory, should be permitted to be examined in advance of the hearing. Witness lists shall be available for exchange in advance of the hearing. Failure to disclose evidence or witness lists in advance of the hearing can constitute grounds for objecting to consideration of the evidence at the hearing or to hearing the testimony of a witness during the hearing. Any documents or other evidence disclosed by the county to the complainant and/or his or her attorney or representative for the hearing shall be returned to DCFS at the conclusion of the hearing.

DCFS and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least **10 business days** prior to the hearing to the extent permitted by law.

DCFS and the complainant shall make available to the other party a list of witnesses they intend to call at the grievance hearing at least **10 business days prior** to the grievance hearing, to the extent permitted by law.

Pursuant to California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31 Section 31-021.621(a), the County shall redact such names and personal identifiers from the records and other evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or neglect pursuant to Penal Code Section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or neglect.

Each party and their attorney or representative and witnesses while testifying, shall be the only persons authorized to be present during the hearing unless all parties and the grievance officer consent to the presence of other persons. The information disclosed at the grievance hearing may not be used for any other purpose. The parties agree that

no information presented at the grievance hearing will be disclosed to any person other than those directly involved in the matter. The evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate challenging the final decision of the DCFS Director. The administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.

All testimony shall be given under oath or affirmation. The grievance officer does not have subpoena power. However the parties may call witnesses to the hearing and question the other party's witness. The grievance review officer may limit the questioning of a witness to protect the witness from unwarranted embarrassment, oppression, or harassment.

The Chief Grievance Review Officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being. The Chief Grievance Review Officer may permit the testimony and/or presence of a child only if the child's participation in the grievance is voluntary and the child is capable of providing voluntary consent. The Chief Grievance Review Officer may interview the child outside the presence of the parties in order to determine whether the child's participation is voluntary or whether good cause exists for preventing the child from being present or testifying at the hearing.

DCFS shall first present its evidence supporting its findings of substantiated abuse or neglect. The complainant will then provide his or her evidence supporting his or her claim that DCFS' finding should be withdrawn or changed. DCFS shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the Chief Grievance Review Officer has the discretion, to allow the parties to submit additional evidence as necessary to evaluate, whether a finding of substantiated abuse is warranted.

The Chief Grievance Review Officer shall have the authority to continue the hearing for a period not to exceed **10 calendar days** if additional evidence or witnesses are necessary for determination of the issue.

**NOTE:** California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31 Section 31-021.64 states that the information disclosed at the grievance hearing may not be used for any other purpose unless otherwise required by law (e.g., **if information from the hearing involves new allegations that pertain to child safety, mandatory reporting laws take precedence in this situation.**) No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter. Any records and other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.

Grievance review proceedings shall be audio recorded as part of the official administrative record. It will be the responsibility of the Chief Grievance Review Officer's staff to possess and maintain the administrative record of the hearing. The complainant or the complainant's attorney shall be entitled to inspect the transcript and/or recording, however DCFS shall keep possession of the transcript, and tape, and its contents will remain under seal. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant. DCFS shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the Director of DCFS.

The grievance hearing record shall be retained for a length of time consistent with current law, regulations, or judicial order, which governs the retention of the underlying record, **but not less than one year** from the decision date in any circumstance, and shall include the documents and other evidence accepted as evidence at the hearing.

### **Chief Grievance Review Officer Section Staff Responsibilities**

1. Schedule the grievance hearing within **10 business days and held no later than sixty calendar days** from the date the request for grievance is received, unless otherwise agreed to by the individual and DCFS.
2. At least **30 calendar days** prior to the scheduled grievance hearing, mail a letter on DCFS letterhead to the individual informing him or her of the date, time and place of the grievance hearing.

**NOTE:** Either party may request a continuance of the grievance hearing not to exceed **10 business days**. Additional, continuances, or dismissal of the hearing, shall be granted with mutual agreement of all parties involved, or for good cause.

3. At least **30 calendar days** prior to the grievance hearing, notify the investigating CSW by e-mail and by telephone, that their presence is required at the grievance hearing. Inform them of the date, time, and place of the grievance hearing. In addition, inform the CSW's SCSW and ARA by e-mail and telephone of the scheduled grievance hearing.

**NOTE:** A conflict in work assignments **shall not** render the CSW who conducted the investigation unavailable to participate in the hearing.

If the CSW is no longer an employee of DCFS, attempt to locate that CSW's former SCSW at the time of the investigation and request that they be present at the grievance hearing.

4. If the individual is planning to have an attorney at the hearing:
  - a) instruct the investigating CSW to have their Outstation Attorney present; and
  - b) contact the designated Advise County Counsel Attorney to assist the Chief Grievance Review Officer in the grievance hearing.

**Chief Grievance Review Officer Responsibilities**

1. Record and conduct the grievance review hearing.
2. Administer the oath to all witnesses.
3. In the event that a child may be a witness, interview the child outside the presence of the parties in order to determine whether the child's participation is voluntary or whether good cause exists for preventing the child from being present or testifying at the hearing.

**NOTE:** The grievance officer may limit the questioning of a witness to protect the witness from unwarranted embarrassment, oppression, or harassment.

4. Review and evaluate documentary evidence.
5. Based on the evidence presented at the hearing determine whether the allegation of abuse or neglect is unfounded, inconclusive or substantiated as defined in penal Code Section 11165.12.
6. Provide a written recommended decision to the Director or Chief Deputy within **30 calendar days** of the close of the grievance hearing. The decision shall contain a summary statement of the facts, the issues involved, findings, and the basis for the decision.

**Director Responsibilities**

The Director of DCFS shall issue a written final decision adopting, rejecting, or modifying the recommended decision within **10 business days** after the recommend decision issues. The Director of DCFS shall explain why a recommended decision was rejected or modified.

**NOTE:** The final decision **shall** be based upon the evidence presented at the hearing.

**C.1 WHEN: THE CHIEF GRIEVANCE REVIEW OFFICER IS UNABLE TO CONDUCT A FAIR AND IMPARTIAL HEARING.**

Pursuant to California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31 Section 31-021.54, -31-021.55:

- A grievance review officer shall voluntarily disqualify him or herself and withdraw from any proceeding in which he or she cannot give a fair and impartial hearing or in which he or she has an interest.
- A claimant may request at any time prior to the close of the record, that the grievance review officer be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered.
- Such request shall be ruled upon by the grievance review officer prior to the close of the record. The grievance review officer's determination is subject to rehearing review and judicial review in the same manner and to the same extent as other determinations of the grievance review officer in the proceeding.
- If, at the beginning or during the hearing, the grievance review officer upholds a party's motion for disqualification, the matter shall be postponed. A postponement due to a disqualification of a grievance review officer shall be considered a postponement with good cause. If, after the hearing, but before the close of the record the grievance review officer determines that disqualification is appropriate, the provisions of Section 31-021.55 shall apply.
- A staff or other person who is available to prepare the proposed decision. If the grievance review officer who heard the case is unavailable to prepare the proposed decision, the County Director or his or her designee shall contact the claimant and the county and notify each party that the case is being assigned to another grievance hearing officer for preparation of the decision on the record.
- The notice shall inform the claimant that he or she may elect to have a new grievance hearing held in the matter, provided that he or she agrees to waive the ten (10) day or sixty (60) day period set forth in Section 31-021.4.
- A grievance review officer shall be considered unavailable within the meaning of this section if he or she:
  - (a) Is incapacitated.
  - (b) Has ceased employment as a grievance review officer.
  - (c) Is disqualified under Section 31-021.54-542.

**D. WHEN: NOTIFYING DEPARTMENT OF JUSTICE OF A CORRECTION  
TO THE CHILD ABUSE CENTRAL INDEX**

**Chief Grievance Review Officer Section Staff Responsibilities**

1. Mail the DCFS 5632, Response Letter to Child Abuse Central Index Inquiries to:

- Each complainant that requested a grievance hearing;
- The complainant's attorney or representative, if any; and,
- The California Department of Social Services at:

California Department of Social Services  
Attri: Child Welfare Policy and Program Development Bureau  
744 P Street, MS 11-87  
Sacramento, CA 95814

2. If the finding of substantiated abuse or neglect is changed because of the grievance hearing, advise DOJ of the change and request that the complainant's name be removed from the CACI or that the designation of substantiated abuse or neglect be changed accordingly.

3. Within 5 business days of making the change, submit to the DOJ the following:

- A new BCIA 8583, which states that supplementary information is being provided for a previously submitted BCIA 8583 (check the appropriate box in Section C. "Amended Report Information.").

4. Send the above documents to the DOJ at:

Department of Justice  
4949 Broadway, Room B216  
Sacramento, CA 95820  
The DOJ will also accept forms

**NOTE:** The DOJ will also accept letters submitted via email or fax. Submit the information to: [DOJChildProtectionProgram@doj.ca.gov](mailto:DOJChildProtectionProgram@doj.ca.gov) or fax (916) 227 4094.

**E. WHEN: UPDATING CWS/CMS WHEN THERE IS A CHANGE IN INVESTIGATION DISPOSITION**

**Chief Grievance Review Officer Section Staff Responsibilities**

Update the Allegation Notebook of the referral CWS/CMS whenever there is a change in investigation disposition as the result of a case review or grievance review hearing. In addition, document on the ID page of the referral tool that there was a request for a grievance hearing, and the results of the hearing place.

**APPROVAL LEVELS**

Section	Level	Approval
A.-E.		None

**OVERVIEW OF STATUTES/REGULATIONS**

**Penal Code Section 11165.12**

- (a) Unfounded report means a report which is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6.
- (b) Substantiated report means a report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred. A substantiated report shall not include a report where the investigator who conducted the investigation found the report to be false, inherently improbable, to involve an accidental injury, or to not constitute child abuse or neglect as defined in Section 11165.6.
- (c) Inconclusive report means a report which is determined by the investigator, who conducted the investigation not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

**Penal Code Section 11169 (a), (b) and (c)**

- (a) An agency specified in Section 11165.9 shall 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, other than cases coming within subdivision (b) of Section 11165.2. An 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. 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 and shall not retain the report. 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. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

- (b) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.
- (c) Agencies shall retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section and subdivision (a) of Section 11170. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.

**Penal Code Section 11170(b)(2)**

When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

**California Code of Regulations Title 11, section 901(a)**

"Active Investigation" means 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 known or suspected abuse; conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available; 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 investigating agency.

**California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31 Sections 31-003, 31-021, 31-410, and 31-501**

Sets forth the requirements for conducting a CACI Review Hearing.

**County Letter (ACL) 07-53, Gomez v. Saenz Lawsuit Settlement**  
**County Information Notice (ACIN) 1-21-08, Implementation Activities for Gomez V. Saenz Lawsuit Settlement**



ACIN 1-22-08, Implementation Activities for Gomez V. Saenz Lawsuit Settlement

**RELATED POLICIES**

- Procedural Guide 0050-501.10, Child Abuse and Neglect Reporting Act (CANRA): Who Must Report
- Procedural Guide 0050-501.40, Child Abuse Reporting Act (CANRA): Immunities and Liabilities
- Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral
- Procedural Guide 0070-548.17, Completion and Submission of the BCIA 8583, Child Abuse or Severe Neglect Indexing Form
- Procedural Guide 0500-501.10, Releasing DCFS Case Record Information.
- Procedural Guide 0500-501.15, Releasing Case Record Information to Child Welfare Agencies Outside California

**LINKS**

- California Codes <http://www.leginfo.ca.gov/calaw.html>
- Division 31 Regulations <http://www.cdss.ca.gov/ord/PG309.htm>
- Title 22 Regulations <http://www.dss.cahwnet.gov/ord/PG295.htm>
- Link to Translated State Forms:  
[http://www.dss.cahwnet.gov/cdssweb/FormsandPu\\_274.htm](http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm)

**FORM(S) REQUIRED/LOCATION**

- Hard Copy:** None
- LA Kids:**
  - DCFS 5632**, Response Letter to Child Abuse Central Index Inquiries
  - SOC 832**, Notice of Child Abuse Central Index Listing
  - SOC 833**, Grievance Procedures for Challenging Reference to the Child Abuse Central Index
  - SOC 834**, Request for Grievance Hearing
- CWS/CMS:**
  - BCIA 8583**, Child Abuse or Severe Neglect Indexing Form
  - SOC 832**, Notice of Child Abuse Central Index Listing
  - SOC 833**, Grievance Procedures for Challenging Reference to the Child Abuse Central Index
  - SOC 834**, Request for Grievance Hearing
- SDM:** None



**NOTICE OF CHILD ABUSE CENTRAL INDEX LISTING**

NAME OF ALLEGED SUSPECT

COUNTY OF

The \_\_\_\_\_ County Child Welfare Services agency has completed an investigation of alleged child abuse or severe neglect and determined that the allegations of abuse or severe neglect are substantiated. Pursuant to Penal Code Section 11169(b), this is notice that the finding of substantiated abuse or severe neglect was sent to the California Department of Justice (DOJ) for inclusion in the Child Abuse Central Index (CACI). The CACI contains certain information that enables authorized entities to locate investigations of alleged child abuse or severe neglect conducted by county child welfare departments.

Law enforcement agencies, court investigators, probation departments and district attorneys may use the CACI when investigating allegations of child abuse or neglect. The CACI is also used by licensing agencies and county welfare agencies to investigate persons who apply for licenses or employment to care for children in licensed facilities. If any of these agencies receive information from the CACI that there was a prior investigation of child abuse or severe neglect, they are required to conduct an independent review of the child abuse or severe neglect investigation.

**REPORTS OF SUSPECTED CHILD ABUSE MAINTAINED BY DOJ ARE CONFIDENTIAL AND MAY ONLY BE DISCLOSED TO STATUTORILY AUTHORIZED PARTIES (PENAL CODE SECTION 11167.5)**

The County has determined that the allegation of child abuse or severe neglect against you is substantiated

A substantiated finding is defined by Penal Code section 11165.12(b) to mean that the investigator who conducted the investigation determined that, based upon the evidence, it was more likely than not that child abuse or neglect occurred.

**The term child abuse and neglect is defined by Penal Code section 11165.6. This determination is based on the following information discovered during the investigation:**

NAME OF ALLEGED VICTIM(S):

DATE(S) AND LOCATION(S) THE ALLEGED ABUSE OR SEVERE NEGLECT OCCURRED:

THE SPECIFIC ACT(S) OF ABUSE OR SEVERE NEGLECT ALLEGED AGAINST YOU IS/ARE AS FOLLOWS:

REFERRAL NUMBER:

No action on your part is required at this time. However, if you want to challenge your listing on the CACI, you must complete the enclosed Request for Grievance Hearing form, and mail it to the following address:

You must mail the completed Request for Grievance Hearing form no later than 30 days from the date of this notice. As part of the grievance hearing procedures, you may inspect all records and evidence related to investigation of the referral, except for information made otherwise confidential by law. This information may be requested by checking the box under the signature line of the Request for Grievance Hearing form. For more information, you can contact:

COUNTY STAFF PERSON:

PHONE

DATED

( )

# REQUEST FOR GRIEVANCE HEARING

REFERRAL NUMBER

COUNTY OF

No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or severe neglect has occurred, or when the allegation of child abuse or severe neglect resulting in the referral to the Child Abuse Central Index is pending before the court.

## A. CONTACT INFORMATION

NAME:

DATE OF BIRTH

STREET ADDRESS:

CITY:

STATE:

ZIP CODE:

TELEPHONE NUMBER:

ALTERNATE NUMBER:

( )

( )

I hereby request a grievance hearing to dispute the decision to list my name on the Child Abuse Central Index (CACI). I acknowledge that I have received a copy of the Notice of Child Abuse Central Index Listing and a copy of the Grievance Hearing Procedures.

## B. REASON FOR GRIEVANCE

The reason I am requesting a grievance hearing is because **(YOU MUST CHECK AT LEAST ONE)**:

- I am not the person who committed the alleged act(s) of abuse or severe neglect.
- The alleged act(s) of abuse or severe neglect did not occur.
- Even if the alleged act(s) occurred, these acts are not abuse or severe neglect within the meaning of the Child Abuse and Neglect Reporting Act.
- Other. If this box is checked, please explain below. If you need more space for your explanation, you may attach additional pages to this form.

SIGNATURE:

DATED:

- Check this box if you would like to schedule an appointment so that you can examine all records and evidence related to investigation of the referral, except for information made otherwise confidential by law. At this appointment, you must also bring and disclose to the county all records and evidence that support your claim that you should not be listed on the CACI.

You may have an attorney or other representative present at the hearing to assist you. If you intend to have an attorney or other representative present, please provide us with the following information.

## C. ATTORNEY/REPRESENTATIVE INFORMATION

ATTORNEY OR REPRESENTATIVE'S NAME:

PHONE NUMBER:

ATTORNEY OR REPRESENTATIVE'S ADDRESS:

Please return this Request for Grievance to this address:  
Address:

Attn:

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



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

Los Angeles County Review  
Commission Staff Analysis and Proposed Parameters and Guidelines  
Interagency Child Abuse and Neglect Investigation Reports Program (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 review.

I declare that I have met and conferred with County staff responsible for implementing provisions of the Interagency Child Abuse and Neglect (ICAN) program found to be reimbursable by the Commission on State Mandates (Commission) at their December 6, 2007 hearing, in preparing the attached review.

I declare that the subject review that I have prepared includes sworn declarations of County staff which detail reasonably necessary and reimbursable activities which are based on ICAN's provisions which were found to be reimbursable by the Commission at their December 6, 2007 hearing.

I declare that it is my information and belief that Commission staff's proposed ICAN Ps&Gs as modified by the County provide eligible claimants with complete reimbursement for ICAN provisions found by the Commission to impose "costs mandated by the State", as defined in Government Code section 17514, upon local governmental agencies.

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.

4/11/13, Los Angeles, CA  
Date and Place

*Leonard Kaye*  
Signature

**CBARCLAYS OFFICIAL CALIFORNIA CODE OF  
REGULATIONS  
TITLE 11. LAW  
DIVISION 1. ATTORNEY GENERAL  
CHAPTER 9. REPORT OF CHILD ABUSE  
ARTICLE 1. REPORT OF CHILD ABUSE**

This database is current through 11/20/09 Register 2009,  
No. 47

§ 901. Definitions.

(a) "Active Investigation" means 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 known or suspected abuse; conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available; 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 investigating agency.

(b) "Audit Trail" is the method used by DOJ to track inquiries to ACAS to determine the requestor and the response provided. (See § 910)

(c) "Automated Child Abuse System" (ACAS) means the current system used by DOJ to electronically store reports of child abuse submitted by investigating agencies. ACAS is also known as the Index and the Child Abuse Central Index. Child Abuse Central Index and the Index are the same terms as used in Penal Code section 11170.

(d) "Child" is the same term as defined in Penal Code section 11165.

(e) "Child Abuse" is the same term as defined in Penal Code section 11165.6.

(f) "Confirmation" is the DOJ process of contacting the agency that submitted the report to confirm that the underlying investigative report is still available and is not unfounded. (See § 908)

(g) "DOJ" means the Department of Justice.

(h) "General Neglect" is the same term as used in Penal Code section 11165.2.

(i) "Inconclusive Report" is the same term as defined in Penal Code section 11165.12(c). This category was originally termed "unsubstantiated report" and was renamed by Chapter 842 of the Statutes of 1997, effective January 1, 1998.

(j) "Investigative 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.

(k) "Possible Match" means DOJ staff has checked a specific name as the result of an inquiry and has, based on the name and other items of personal description (date of birth, social security number, driver's license number, or address), matched that name to an existing report(s) in ACAS. The match is considered possible because it has not been confirmed absolutely with positive matching processes such as a fingerprint comparison.

(l) "Severe Neglect" is the same term as used in Penal Code section 11165.2.

(m) "Submitting Agency" means the agency that forwarded the completed summary report on which an ACAS entry is based.

(n) "Substantiated Report" is the same term as defined in Penal Code section 11165.12(b).

(o) "Summary Report" means an entry in ACAS reporting the investigation of a suspected incident of child abuse or severe neglect. All mandatory information as specified in regulation § 903 must be included for the report to be entered into ACAS. (See § 903)

(p) "Suspect" means a person who has been designated as a suspect in an agency's child abuse investigation and subsequently reported as such to DOJ.

(q) "Unfounded" is the same term as defined in Penal Code section 11165.12(a). Unfounded reports are not forwarded to DOJ for inclusion in the ACAS.

(r) "Unsubstantiated" means a report that is determined by a child abuse investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. (This category was renamed "inconclusive" by Chapter 842 of the Statutes of 1997, effective January 1, 1998).

(s) "Verification" means the process DOJ uses to insure that the data entered into ACAS is accurately entered into ACAS. (See § 904)

(t) "Victim" means a person who has been designated as a victim in a child abuse investigative report and subsequently reported as such to DOJ.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Section 11170(a)(1), Penal Code.  
Reference: Sections 11165, 11165.2, 11165.6, 11165.9, 11165.12(a), 11165.12(b), 11165.12(c), 11169 and 11170(a), Penal Code; and Section 1596.60, Health and Safety Code.

#### HISTORY

1. New section filed 7-17-98; operative 7-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 29).
2. Amendment of section and Notefiled 4-22-2002; operative 5-22-2002 (Register 2002, No. 17).
3. Amendment filed 5-12-2006; operative 6-11-2006 (Register 2006, No. 19).  
11 CCR § 901, 11 CA ADC § 901

1CAC

11 CA ADC § 901  
END OF DOCUMENT



## CHILD ABUSE OR SEVERE NEGLECT INDEXING FORM

To be completed by Submitting Child Protective Agency pursuant to Penal Code (PC) section 11169		DOJ USE ONLY RCN AGENCY
<input type="checkbox"/> <b>INITIAL REPORT</b>		
<input type="checkbox"/> <b>AMENDED REPORT</b> (attach copy of original BCIA 8583. Complete sections A, C, and all other applicable fields)		

A. SUBMITTING AGENCY	SUBMITTING AGENCY (Enter complete name and check type)	<input type="checkbox"/> WELFARE <input type="checkbox"/> PROBATION	AGENCY REPORT NUMBER/CASE NAME	
	AGENCY ADDRESS                      Street	City	State	Zip Code
	NAME OF SUBMITTING PARTY	TITLE	AGENCY TELEPHONE	

B. INCIDENT INFORMATION	DATE OF REPORT	<input type="checkbox"/> THE FINDING THAT ALLEGATIONS OF CHILD ABUSE OR SEVERE NEGLECT IS SUBSTANTIATED (PC sections 11165.12(b) and 11169(a))
	DATE OF INCIDENT	TYPE OF ABUSE (Check one or more) <input type="checkbox"/> PHYSICAL INJURY <input type="checkbox"/> MENTAL/EMOTIONAL SUFFERING <input type="checkbox"/> SEXUAL ABUSE, ASSAULT, EXPLOITATION <input type="checkbox"/> SEVERE NEGLECT <input type="checkbox"/> WILLFUL HARMING/ENDANGERMENT <input type="checkbox"/> UNLAWFUL CORPORAL PUNISHMENT OR INJURY

C. AMENDED REPORT INFORMATION	ORIGINAL AGENCY REPORT NUMBER/CASE NAME	DATE OF INCIDENT	TYPE OF ABUSE
	<input type="checkbox"/> NOW UNFOUNDED OR INCONCLUSIVE <input type="checkbox"/> ADDED ADDITIONAL INFORMATION <input type="checkbox"/> CORRECTED REPORT INFORMATION <input type="checkbox"/> UNDERLYING INVESTIGATIVE FILE NO LONGER AVAILABLE		

COMMENTS

D. INVOLVED PARTIES SUSPECT	NAME: Last                      First                      Middle	AKA	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *
	DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		IS VICTIM DEVELOPMENTALLY DISABLED (4512(a) W&I)? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN			
	NAME: Last                      First                      Middle	AKA	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *
	DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		IS VICTIM DEVELOPMENTALLY DISABLED (4512(a) W&I)? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN			
	NAME: Last                      First                      Middle	AKA	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *
	DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		IS VICTIM DEVELOPMENTALLY DISABLED (4512(a) W&I)? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN			

SUSPECT IS AGE 17 OR YOUNGER	<input type="checkbox"/> YES <input type="checkbox"/> NO	DOB	Approx. AGE	HGT	WGT	EYE	HAIR	<input type="checkbox"/> MALE	RACE *
ADDRESS                      Street	City	State	Zip Code	SOCIAL SECURITY NUMBER		DRIVER'S LICENSE NUMBER			

RELATIONSHIP TO VICTIM:	<input type="checkbox"/> PARENT/STEEPPARENT	<input type="checkbox"/> SIBLING	<input type="checkbox"/> OTHER RELATIVE	<input type="checkbox"/> FRIEND/ACQUAINTANCE	<input type="checkbox"/> STRANGER
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OTHER	NAME: Last                      First                      Middle	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *
	NAME: Last                      First                      Middle	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *
	NAME: Last                      First                      Middle	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *
	NAME: Last                      First                      Middle	DOB	Approx. AGE	<input type="checkbox"/> MALE	RACE *

\* RACE CODES:

W - White  
B - Black  
H - Hispanic  
I - American Indian  
F - Filipino  
P - Pacific Islander  
S - Samoan

C - Chinese  
J - Japanese  
A - Other Asian  
Z - Asian Indian  
D - Cambodian  
G - Guamanian

U - Hawaiian  
K - Korean  
L - Laotian  
V - Vietnamese  
O - Other  
X - Unknown



**CHILD ABUSE SUMMARY REPORT  
DEPARTMENT OF JUSTICE (DOJ) FORM SS 8583  
Guidelines for Use and Completion of Form SS 8583**

(For Specific Requirements Refer to the Child Abuse Reporting Law, California Penal Code Sections 11165 through 11174.3)

**For immediate information on potential suspects/victims, please contact the Child Abuse Unit at (916) 227-3285.**

**Who Must Report**

**Interagency Reporting**

Any police or sheriff's department, county welfare department, or county probation department (if designated by the county to receive mandated reports) must report every suspected incident of child abuse it receives to:

- the law enforcement agency having jurisdiction over the case
- the agency responsible for investigations under Welfare and Institutions Code Section 300
- the district attorney's office

**DOJ Reporting**

- An agency must report every incident of suspected child abuse for which it conducts an active investigation and determines not to be unfounded to DOJ on the Form SS 8583.

*NOTE: Reports are not accepted from non-California agencies.*

**What Incidents Must Not Be Reported**

**Interagency Reporting**

- Incidents specifically exempted under cooperative arrangements with other agencies in your jurisdiction.

**DOJ Reporting**

- Unfounded reports - Reports which are determined to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect as defined in Section 11165.6 PC (Section 11165.12 PC).
- Acts of nonexploitive, consensual sexual behavior between minors under the age of 14 years who are of similar age.
- Acts of negligence by a pregnant woman or other person(s) who adversely effect the well-being of a fetus.
- Child stealing as defined in Sections 277 PC and 278 PC, unless it involves sexual abuse, physical abuse, mental/emotional abuse, and/or severe neglect.
- Reasonable and necessary force by school employees to quell a disturbance threatening physical injury to person or damage to property (Section 11165.4 PC).
- Statutory rape, as defined in Section 261.5 PC, except violations of Section 261.5(d) PC.
- Mutual fights between minors (Section 11165.6 PC).

**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:

**Interagency Reporting**

- sexual abuse
- physical abuse
- general neglect
- mental/emotional abuse
- severe neglect

*(Refer to Section 11165.1 through 11165.6 PC for PC citations and definitions)*

**DOJ Reporting**

- All of the above, excluding general neglect.
- Deaths of minors resulting from abuse or neglect.

**When Must the Report Be Submitted**

**Interagency Reporting**

- Telephone notification - immediately or as soon as practical.
- Written notification - within 36 hours of receiving information concerning the incident.
- When an agency takes a report for which it lacks jurisdiction the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

**DOJ Reporting**

- A Form SS 8583 must be submitted after an active investigation has been conducted and the incident has been determined not to be unfounded. DOJ defines "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 investigating agency.

*NOTE: No other form will be accepted in lieu of the Form SS 8583.*

The suspect(s) must be notified in writing that he/she has been reported to the Child Abuse Central Index per PC Section 11169(b).

**What Information is Required**

**General Instructions**

- All information blocks contained on the Form SS 8583 should be completed by the investigating agency. If information is not available, indicate "UNK" in the applicable information block.

**Specific Instructions**

INFORMATION BLOCKS ON THE FORM SS 8583 WHICH ARE SHADED GRAY MUST BE COMPLETED. **THE SUBMITTED FORM WILL BE RETURNED TO THE CONTRIBUTOR WITHOUT FURTHER DEPARTMENT OF JUSTICE ACTION IF THE CONTRIBUTOR FAILS TO COMPLETE ANY OF THE FOLLOWING ITEMS:** the agency name and type; the agency's report number or case name; the action taken by the investigating agency; the specific type of abuse; the victim's name, birthdate or approximate age, and gender; and the suspect's name and birthdate or approximate age, and gender. If the suspect is not known, UNKNOWN must be entered. Verification must be provided that an active investigation was conducted, that victim(s), and any known suspect(s), and witness(es) were contacted. An explanation must be provided if these contacts were not made. Verification must be provided that the suspect was given written notification that he/she has been reported to the Child Abuse Central Index per Section 11169(b) PC. An explanation must be provided if there was no notification.

Section A. "INVESTIGATING AGENCY," information block 10. "ACTION TAKEN" or 10A. "SUPPLEMENTAL INFORMATION" must be completed in accordance with the following definitions (Check one of the boxes):

<p><b>10. ACTION TAKEN</b> (check only one box):</p> <p><input type="checkbox"/> (1) SUBSTANTIATED (Abuse more likely than not to have occurred)</p> <p><input type="checkbox"/> (2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)</p>	<p><b>10A. SUPPLEMENTAL INFORMATION</b> (Attach copy of original report)</p> <p><input type="checkbox"/> (a) INCONCLUSIVE</p> <p><input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)</p> <p><input type="checkbox"/> (c) ADDITIONAL INFORMATION</p>
---	---

**10. ACTION TAKEN**

- ① SUBSTANTIATED - Abuse, as defined in Section 11165.6 PC, determined to have more likely than not occurred.
- ② INCONCLUSIVE - Report determined not to be unfounded, but there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6 PC, occurred.

**10A. SUPPLEMENTAL INFORMATION** - Only use this section to update information previously submitted on Form SS 8583.

- Ⓐ INCONCLUSIVE - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" is being reclassified to "INCONCLUSIVE".
- Ⓑ UNFOUNDED - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED," "UNSUBSTANTIATED," or "INCONCLUSIVE" is being reclassified to "UNFOUNDED."
- Ⓒ ADDITIONAL INFORMATION - Supplementary information is being provided for a previously submitted Form SS 8583.

**Where To Send The Report, Form SS 8583**

*(For DOJ reporting only)*

Department of Justice  
Bureau of Criminal Information and Analysis  
P. O. Box 903387  
Sacramento, CA 94203-3870  
ATTENTION: Child Abuse Unit

**REMEMBER**

Submit completed Form SS 8583 to DOJ as soon as possible after completion of the investigation because the case information may contribute to the success of another investigation. It is essential that the report be complete, accurate and timely to provide the maximum benefit in protecting children and identifying and prosecuting suspects. If you have questions about DOJ REPORTING or need a victim or suspect name check, call the DOJ Child Abuse Unit at (916) 227-3285 or CALNET 498-3285.

# **A Guide to Reporting Child Abuse to the California Department of Justice**



**2005**

*Division of California Justice Information Services  
Bureau of Criminal Information and Analysis  
Child Protection Program*

**BILL LOCKYER**  
Attorney General

## About this Guide

This guide is designed as a reference manual to assist individuals responsible for submitting the Child Abuse Investigative Report to the Department of Justice (DOJ).

The Attorney General's Child Protection Program (CPP) has prepared this guide to:

- Explain and define statutory requirements and responsibilities.
- Explain how to obtain child abuse information from DOJ.
- Assist agencies in complying with reporting requirements.

The Appendix contains forms used to request and report information; abbreviations, acronyms, and definitions; and a simplified chart showing how the process works.

Further information is available on the Attorney General website at:

<http://www.ag.ca.gov/childabuse/>

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Definitions, Abbreviations, and Acronyms

- Forms: SS 8583 - Child Abuse Investigation Report  
SS 8583 - Instruction Page  
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SS 8572 - Instruction Page  
BCIA 4084 - Facsimile Inquiry

Flowchart

# INTRODUCTION

The Child Abuse Central Index (Index) is a tool for state and local agencies to help protect the health and safety of California's children. The Index was created by the Legislature in 1965, and is defined in Penal Code (PC) sections 11164 through 11174.31. These statutes are referred to as the Child Abuse and Neglect Reporting Act (CANRA).

The Index reflects reports of investigations completed by child protection agencies, and is used to aid with investigations and prosecutions. Information from the Index is also provided to agencies to help screen applicants for licensing or employment in childcare facilities and foster homes, to aid in background checks for child placement and adoptions, as well as peace officer pre-employment checks.

The CPP administers the Index by processing information extracted from Child Abuse Investigation Report (Form SS 8583). The CPP updates information to, and disseminates information from, the Index to authorized agencies.

As a child protective agency investigator, you may contact the CPP to determine if another agency has submitted a report with information relating to suspects and/or victims in your current investigation. Likewise, child abuse investigators from other agencies may need information you have submitted. Therefore, the reports you submit are vitally important throughout California.

The CPP disseminates Index information, including notices of new child abuse investigation reports involving the same reported suspects and/or victims.

Information on file in the Index includes:

- Names and personal descriptors of the suspects and victims;
- Reporting agency that investigated the incident;
- The name and/or number assigned to the case by the investigating agency;
- Type(s) of abuse investigated; and
- The findings of an investigation for the incident, which are either substantiated or inconclusive. (See 11165.12 PC)

Each reporting agency is required by law to forward to the DOJ a summary of every child abuse incident it investigates, unless the incident is determined to be unfounded or of general neglect. Each reporting agency is responsible for the accuracy, completeness and retention of the investigative file that substantiates a report submitted to the DOJ.

## **REPORTING TO THE INDEX (Form SS 8583)**

### **11169 PC mandates reporting child abuse to the DOJ.**

Specifically, 11169 PC states "An agency specified in 11165.9 PC shall forward to the DOJ a report in writing of every case it investigates of known or suspected child abuse or severe neglect..."

Child abuse investigators who work for police and sheriff's departments, county welfare departments, and county probation departments must report to the DOJ all investigated cases of child abuse:

- 1) determined not to be unfounded, and
- 2) mandated by law to be reported (Refer to "What to Report" on page 9).

Reporting to DOJ is done once your investigation is complete.

The DOJ has prepared standardized forms for the reporting of child abuse. To help ensure the accuracy and completeness of your reports, the following is an explanation of each section of the Child Abuse Investigation Report (Form SS 8583):

### **GENERAL INSTRUCTIONS**

- For reporting to the DOJ, use current Form SS 8583 only.
- All shaded areas on Form SS 8583 are mandatory fields. Print clearly or type.
- All information blocks should be completed by the Child Abuse Investigator (law enforcement and/or child protection agencies).
- To allow complete reporting to DOJ, mark "UK" in any field for which information is unknown or not available.
- Incomplete forms submitted to DOJ may be returned for correction. Ensure accurate and timely resubmission of forms returned to your agency.
- If you have any questions about completing the Form SS 8583, please contact the DOJ at (916) 227-3285.

# FILLING OUT THE FORM SS 8583

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

<b>CHILD ABUSE INVESTIGATION REPORT</b>		FOR DOJ USE ONLY
To be Completed by Investigating Child Protective Agency Pursuant to Penal Code Section 11169 (SHADED AREAS MUST BE COMPLETED)		R C M A G Y
<b>A. INVESTIGATING AGENCY</b>	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. ACTION TAKEN (check only one box):	10A. SUPPLEMENTAL INFORMATION (Attach copy of original report)
	<input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse) <input type="checkbox"/> (2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)	<input type="checkbox"/> (a) NONCONCLUSIVE <input type="checkbox"/> (c) ADDITIONAL INFORMATION <input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)
	11. Active investigation conducted per PC 11162(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 Subjects	Witness(es) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* <input type="checkbox"/> No witnesses    *Explain in comments field A. 12.
	12. COMMENTS:	

## Section A. Investigating Agency

(Items in bold are mandatory data elements.)

### 1. Name and Type of Investigating Agency

Fill in the name of your agency and check box for appropriate type, whether police, sheriff, welfare or probation.

### 2. Agency Report Number/Case Number

Fill in your report number and/or the name you've assigned to the case.

### 3. Agency Address

Fill in the complete address of your agency.

### 4. Agency Telephone and Extension

Fill in either your telephone number and extension number or a number where an investigator can locate the records.

### 5. Name of Investigating Party and Title

Fill in your name and title.

### 6. Date Report Completed

Fill in date of actual completion of Form SS 8583.

7. Agency Cross-reported to

If cross-reporting was required, fill in the name of the CPA you notified about report of suspected child abuse.

8. Person Cross-reported to

Fill in the name of the person you notified about report of suspected child abuse.

9. Date Cross-reported

Fill in actual date you notified the CPA about report of suspected child abuse.

10. Action Taken

Only one action per Form SS 8583 can be submitted. The options are;

- a) Substantiated finding (abuse more likely than not occurred), or
- b) Inconclusive finding (insufficient evidence of abuse, but not unfounded).

10. A. Supplemental information

Use this section if you have previously completed and submitted to DOJ a Form SS 8583, and you want to report additional significant information. Complete information blocks 1 through 5 in Section A; and the following pertinent information blocks pertaining to the additional information:

- a) You are modifying your initial findings, or
- b) You are reporting additional facts discovered during your investigation that are significant to the case. Fill in appropriate information blocks on form (e.g., addition or deletion of suspects or victims). Attach a copy of the Original Form SS 8583.

11. Active Investigation conducted per 11169(a) PC...

(...and if victims, suspect and witnesses were contacted).

In a completed active investigation, the suspects and witnesses would be contacted and interviewed. If you were unable to notice the suspect of this investigation, place explanation in the Comments field (A-12).

NOTE: an active investigation is critical and that in order to comply with the DOJ Regulations, you must complete an active investigation.

12. Comments

If you are submitting a supplemental Form SS 8583, you can describe the reason for submitting this here.

If you were unable to contact suspect for any reason, enter the reason here.

Please contact the CPP if you have any questions concerning meeting the requirements of an "active investigation."



<b>B. INCIDENT INFORMATION</b>	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. 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 (Entry name and address)			

**Section B. Incident Information**

**(Items in bold are mandatory data elements.)**

**1. Date of Incident**

Fill in date the incident occurred. If you only know the month and year, and not the date, submit using the following example format: 02/00/1998.

**2. Time of Incident**

Fill in time the incident occurred.

**3. Location of Incident**

Fill in address and description of premises where incident occurred.

**4. Name of Party Reporting Incident**

This is the person who has contacted the CPA to report the suspected abuse. Remember, if you are the investigating party, you will list that information in Section A. Law Enforcement and Child Protection Services should not be listed in this section as the reporting party.

**5. Employer**

Pertains to person listed in #4.

**6. Telephone**

Pertains to person listed in #4.

**7. Type of Abuse**

Check the type of abuse. You may check one or more, as appropriate. The types of abuse captured are Physical, Mental, Sexual and Severe Neglect. General Neglect is only listed here and available as a selection when submitting a supplemental report, if applicable.

**8. If Abuse occurred in Out-of-Home Care, check type**

The types are: Family Day Care, Child Care Center, Foster Family Home, Small Family Home or Group Home or Institution.

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							
	PRESENT LOCATION OF VICTIM:					TELEPHONE NUMBER:							
						NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (4512(b) WAJ)? <input type="checkbox"/> YES <input type="checkbox"/> NO							
VICTIMS	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							
	PRESENT LOCATION OF VICTIM:					TELEPHONE NUMBER:							
						NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (4512(a) WAJ)? <input type="checkbox"/> YES <input type="checkbox"/> NO							

**C. Involved Parties**

**Victims**

**(This section allows for the entry of two victims.)**

**(Items in bold are mandatory data elements.)**

**Name, A.K.A., DOB, Sex, Race**

- **Name of Victim:** This includes nicknames or other names used, such as maiden names.
- **DOB:** Fill in the victim's date of birth. (This is important to establish victim as a minor at the time of the abuse.)
- **Sex:** Check appropriate box to indicate whether victim is male or female.
- **Race:** Refer to race types on bottom of reporting form.

**Address:** Fill in complete address of victim.

**Did victim's injuries result in death?**

Check appropriate box.

**Nature of Injuries:**

Describe injuries (e.g., broken bones, burns, bruises). If this information is uncovered once a report has initially been submitted, a supplemental report should be submitted responding to this question.

**Present location of victim:**

Fill in victim's current location, including the phone number.

**Is victim Developmentally Disabled?**

Refer to Welfare & Institutions Code, section 4512(a) for definition, and check appropriate box.

C. INVOLVED PARTIES SUSPECTS	1 NAME: Last First Middle AKA													D M YR		MO DA		AGE: APPROX		<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE		R A C E	
	ADDRESS: Street City Zip Code				HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER			DRIVER'S LICENSE NUMBER											
	RELATIONSHIP TO VICTIM													<input type="checkbox"/> (1) PARENT/STEPARENT		<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)													MO		DA		YR		Date notice given: _____ If notice not given, explain in comments field A.12.			
<input type="checkbox"/> Yes <input type="checkbox"/> No																							
	2 NAME: Last First Middle AKA													D M YR		MO DA		AGE: APPROX		<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE		R A C E	
	ADDRESS: Street City Zip Code				HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER			DRIVER'S LICENSE NUMBER											
	RELATIONSHIP TO VICTIM													<input type="checkbox"/> (1) PARENT/STEPARENT		<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)													MO		DA		YR		Date notice given: _____ If notice not given, explain in comments field A.12.			
<input type="checkbox"/> Yes <input type="checkbox"/> No																							

**C. Involved Parties (Continued)**

**Suspects**

(This section allows for the entry of two suspects)

(Items in bold are mandatory data elements.)

**Name, A.K.A., DOB, Sex, Race**

- Fill in complete name of suspect, including any nicknames or other names used, such as maiden names. If all, or any part of the suspect's name is unknown or not available, indicate by writing "UK."
- Fill in the complete date of birth of the suspect
- Check appropriate box to indicate whether suspect is male or female.
- Fill in the race of the suspect. Codes appear at the bottom of the reporting form.

**Address, Height, Weight, Eyes, Hair, Social Security Number**

- Fill in the complete address, height, weight, eye color, hair color and social security number and drivers license number of the suspect, if known. If not known, you may provide comments.

**Relationship to Victim** - Check box the appropriate category:

- parent or stepparent of victim
- brother or sister of victim
- other relative of victim
- friend or acquaintance of victim
- stranger or unknown to victim

**Suspect given written notice per 11169 (b) PC**

- Respond Yes or No and the date notice given. If notice was not given, explanation must be provided in Comment field (A-12).

<b>OTHER</b>	1. NAME:	Last	First	Middle	<input type="checkbox"/> (1) PARENT/STEPARENT	D O B	MO	DA	YR	APPROX	<input type="checkbox"/> MALE	R C O D E
					<input type="checkbox"/> (2) SBLING					AGE:	<input type="checkbox"/> FEMALE	
	2. NAME:	Last	First	Middle	<input type="checkbox"/> (1) PARENT/STEPARENT	D O B	MO	DA	YR	APPROX	<input type="checkbox"/> MALE	R C O D E
					<input type="checkbox"/> (2) SBLING					AGE:	<input type="checkbox"/> FEMALE	

\*RACE CODES: W-White, B-Black, N-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-Latvian, S-Samoan, V-Vietnamese, O-Other, X-Unknown

CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.

SS 8583 (Rev. 5/02)      PINK COPY-DOJ; WHITE COPY-Police or Sheriff; BLUE COPY-County Welfare or Probation; GREEN COPY-District Attorney's Office

**C. Involved Parties (Continued)**

**Other**

(This section allows for entry of two additional involved parties.)

- Name, Relationship, Date of Birth or approximate age, Sex, and Race

This section includes anyone else who was involved in the incident, but is neither a victim nor suspect.

Check here if additional sheet(s) is attached.

At the bottom of the form is a box to check if you are attaching additional information. If checked, this box alerts CPP staff to look for attachments. If there are more than two names for any of the above-mentioned areas; an additional page can be submitted attached to the original SS 8583 report.

Notate the RCN listed on the initial report, and include case number and date of report.

## **WHAT TO REPORT**

**11169(a) PC mandates the reporting of specific types of child abuse.**

The basic categories of reportable child abuse are sexual, physical, severe neglect and willful harming or endangering (which includes mental abuse). Listed below are the statutory references and definitions thereof.

### **Sexual Abuse as defined in 11165.1 PC includes all of the following:**

1. Rape (261 PC and 264.1 PC)
2. Incest (285 PC)
3. Sodomy (286 PC)
4. Lewd and lascivious acts upon body of child under 14 [288(a)(b) PC]
5. Oral copulation [288(a) PC]
6. Penetration of genital or anal openings by foreign object (289 PC)
7. Child molesting (647.6 PC)
8. Certain other sexual acts [11165.1(b) PC] including:
  - a. Penetration of vagina or anus by penis.
  - b. Sexual contact between genitals or anus by mouth or tongue.
  - c. Intrusion into genitals or anus by any object.
  - d. Intentional touching or genitals or intimate parts to arouse or gratify.
  - e. Intentional masturbation of perpetrator's genitals in child's presence.
9. Sexual Exploitation to include:
  - a. Sending/bringing into state for sale/distribution matter depicting sexual conduct by minors (311.2 PC)
  - b. Employment of minor to perform prohibited acts [311.4 (a) PC]
  - c. Depicting by film, photograph, videotape, etc. sexual conduct by person under 14 [311.4(a) PC]
  - d. Aiding, promoting, coercing, etc., a child to perform obscene sexual acts for the purpose of producing pictorial depictions (311.3 PC)

### **Physical Abuse as defined in 11165.4 PC includes all of the following:**

1. Unlawful corporal punishment or injury (11165.4 PC)
2. Any acts or omissions cited in 273a PC and 273d PC

### **Severe Neglect as defined in 11165.2 PC**

The child's welfare has been risked or endangered or has been ignored to a point that the child has failed to thrive. Generally, the standard is that a child has been physically harmed or that a very high probability exists that acts or omissions by responsible person would lead to physical harm.

### **Willful harming or endangering (which includes mental abuse) as defined in 11165.3 PC**

The infliction of mental/emotional suffering. Although 11166(b) PC allows mandated reporters discretion of whether or not to report to you, you must still report to DOJ.

### **Child Death referenced in 11174.35 PC**

Report any deaths resulting from physical abuse, evidence of prior physical abuse or severe neglect. If the death occurs after the initial Form SS 8583 is submitted, you must submit a supplemental Form SS 8583 indicating the change to your initial report.

## **WHAT NOT TO REPORT**

11169(a) PC identifies what may not be reported to DOJ.

### **Sexual**

1. Statutory Rape, as defined in section 261.5 PC, except section 261.5(d) PC .
2. Acts of consensual sexual behavior between children under 14 who are of a similar age; or, acts of unlawful sexual intercourse (statutory rape) (261.5 PC).

### **Physical**

1. Incidents of accidental injury or injuries.
2. Reasonable force by public school employee to stop violent disturbance or to exercise physical control. (11165.4 PC, Education Code sections 44807 and 49001)
3. Mutual fights between minors. (11165.6 PC)

### **Neglect**

1. General Neglect, which means that the person responsible for the child's welfare has failed to provide adequate care but has not physically injured the child.
2. Fetal abuse. Fetal abuse may include adversely affecting the well-being of an unborn child and evidence of illegal drugs or alcohol in just-born infant.

### **Child stealing unless it involves child abuse**

### **Unfounded Reports**

Reasons for unfounded reports as defined in 11169 PC, may include false reporting, improbable incidents, accidents, and events that do not constitute child abuse as defined by law.

### **If you have not conducted an Active Investigation**

"Active Investigation" per DOJ regulations Title 11 California Administrative Code, section 901(a) means 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, suspected abuse; "Active Investigation" means 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, suspected abuse; conducting interview 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 investigating agency.

### **If you have not contacted the suspect**

This does not apply if you were unable to locate the suspect or another agency (i.e. law enforcement) has asked you not to notify the suspect. Please use the Comment field to identify the reason suspect was not contacted.

## **WHEN TO REPORT**

Send Form SS 8583 to DOJ after;

- a) you've made investigative contacts,
- b) determined that the child abuse report was not unfounded,
- c) confirmed that the suspected abuse or neglect is reportable to the DOJ as stipulated in previously mentioned statutes,
- d) and completed the investigation.

11166(j) PC requires the cross-reporting by phone immediately, and by mail within 36 hours of receiving a report of suspected child abuse from a mandated reporter or from a citizen. You may use either Forms SS 8572 or SS 8583 to cross-report.

The 36-hour cross-reporting requirement does not apply to DOJ reporting requirements. For DOJ reporting purposes, you must submit the required Form SS 8583 once you have completed your investigation.

## **WHERE TO SEND THE REPORT**

Mail the completed, original Form SS 8583 to:

Department of Justice  
Bureau of Criminal Information and Analysis  
Child Protection Program  
P.O. Box 903387  
Sacramento, CA 94203-3870

## **RETENTION OF INVESTIGATIVE FILES**

Sections 11170 PC and 11169 PC govern the retention of child abuse reports in the Index and affect the retention of reports by local investigative agencies.

### **1) Agency Retention Requirements**

11169(c) PC establishes a basic requirement for agency retention of information.

"Agencies shall retain child abuse or neglect investigative reports that result in a report filed with the DOJ for the same period of time that the information is required to be maintained on the Index... Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law."

### **2) DOJ Retention Requirements**

11170(a)(3) PC allows for a 10 year purge for Inconclusive Reports.

"The Department of Justice shall delete *unsubstantiated* or *inconclusive* child abuse investigation reports from the Child Abuse Central Index after ten years...."

This is true only if the suspect of a report is not linked to a subsequent report. When a suspect of an Index report is linked to a subsequent report, the ten years commence from the date of receipt of the most recent report. (Originating agency will be notified via mail, by DOJ, when this occurs.)

There is no statutory or regulatory authority for the DOJ to purge information from the Index relating to a child abuse investigation if the finding of that investigation was substantiated. Therefore, investigating agencies must maintain their investigative files of substantiated child abuse investigations permanently.



## **INQUIRIES TO THE INDEX**

### **11170 PC governs access to Index Information.**

The Index contains pertinent information from investigated reports of suspected child abuse and offers information not found in the state criminal history system that are derived from arrest and conviction data.

Information relayed by us is intended to direct you to information held by other agencies. We do not conduct investigations and do not have complete investigative files. We are a pointer system to the agency with the investigative file.

### **HOW TO ACCESS INFORMATION**

There are three ways to request Index information. Authorized agencies may access Index information via fax, teletype, or US mail.

#### **1. Fax Inquiries**

##### **A. Submitting Your Request:**

Index inquiries will be processed via facsimile request under the following circumstances:

- Placement Of Child In Emergency Situation
- Care-Taker For Ward Of Court Or Dependent Child\*
- Guardianship\*
- Investigation Of Current Allegation Of Child Abuse\*

Use Form BCIA 4084 for this purpose. Please indicate if you would like your response returned by telephone or by fax by circling the appropriate return phone/fax number.

Fax your inquiry request to:

Department of Justice, Child Protection Program

Fax number: (916) 227-5054

(After 4:30 p.m. on weekdays, and weekends and holiday fax requests will be automatically referred to the DOJ Command Center, which will provide the same service.)

##### **B. Responses To Your Request**

Searches resulting in a no match, and those possible matches not requiring confirmation, will generate a reply within two hours. Replies on inquiries requiring confirmation may be delayed up to 30 thirty days while DOJ contacts the reporting agency to confirm the availability and accuracy of the original report.

C. Obtaining The Form

The Form BCIA 4084 can be faxed to your agency or you may request an electronic copy. Please contact DOJ/ CPP with your electronic mailing address.

\* Possible matches with an existing Index record will require confirmation prior to the release of information.

2. Teletype

To access the Index via the California Law Enforcement Telecommunications System (CLETS), authorized agencies should use the following example as a format:

[Mnemonic for the Department of Justice: DOJ ]

ATTENTION: Child Abuse Unit

SUBJECT: Child Abuse Central Index check for the below listed subjects.

TYPE OF INVESTIGATION: Physical

Name of Subject	Sex	Race	DOB	Subject Status
-----------------	-----	------	-----	----------------

JONES, Dorothy Louise	F	W	010185	V (Victim)
-----------------------	---	---	--------	------------

JONES, William Robert	M	W	020246	S (Suspect)
-----------------------	---	---	--------	-------------

JONES, Louise Ann	F	W	030347	S
-------------------	---	---	--------	---

REFER: Detective Joe Watkins, Child Abuse Unit Mnemonic YB

AGENCY: Los Angeles County Sheriff's Office

Responses to teletype requests will be returned via teletype unless otherwise specified.

3. US Mail

Agencies may request information via the US Mail. Complete Form BCIA 4084, and mail to DOJ/BCIA/ CPP, P.O. Box 903387, Sacramento, CA 94203-3870.

# APPENDIX

## Definition of Terms

**Active Investigation** - 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 known or 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 investigating agency.

**Automated Child Abuse System (ACAS)** - the current system used by DOJ to electronically store reports of child abuse incidents submitted by investigating agencies. Also known as the Index and CACI.

**Child** - person who was a victim under the age of 18 at the time of the alleged abuse.

**Child Abuse** - is the same term as defined in Penal Code section 11165.6, which states the term "child abuse or neglect" includes physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

**Child Abuse Central Index** - also known as CACI, Index, and ACAS.

**Child Protective Agency (CPA)** - is the investigating agency, which includes a police department, a sheriff's department, a county welfare department, or a county probation department.

**Child Protective Agency Investigator** - is a person employed by a child abuse investigative agency who is responsible for inquiring into the details of a report of suspected child abuse. *(NOTE: Throughout this guide the use of the term "investigator" shall mean a child abuse agency investigator.)*

**Child Protection Program** - also known as CPP, is the unit within the DOJ responsible for the maintenance of the Index.

**CLETS** - California Law Enforcement Telecommunications System.

**Confirmation** - the DOJ process of contacting the agency that submitted the report to confirm that the investigative file is still available and is not unfounded.

**DOJ** - Department of Justice.

**General Neglect** - is the same term as used in Penal Code section 11165.2(b) means the negligent failure of a person having the care or custody of a child to provide adequate food,

clothing, shelter, medical care, or supervision where no physical injury to the child has occurred. This is not reportable to DOJ.

**Inconclusive Report** - is the same term as defined in Penal Code section 11165.12(c). This category was originally termed "unsubstantiated report" and was renamed by Chapter 842 of the Statutes of 1997 and became effective January 1, 1998. Inconclusive as defined means a report that is determined by the investigator who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

**Index** - is the same term as used in Penal Code section 11170(a). The Index is currently known as the Automated Child Abuse System (ACAS).

**Investigative File or Underlying Investigative File** - is the 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.

**Possible Match** - this is when DOJ staff have checked a specific name as the result of an inquiry and has, based on the name and other items of personal description (date of birth, social security number, driver's license number, or address), matched that name to an existing report(s) in ACAS. The match is considered possible because it has not been confirmed absolutely with positive matching processes such as a fingerprint comparison.

**Report** - an entry in ACAS reporting the investigation of a suspected incident of child abuse. All mandatory information as specified in Title 11, section 903 of the California Code of Regulations must be included for the report to be entered into ACAS.

**Severe Neglect** - is the same term as used in Penal Code section 11165.2, which states; the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

**Submitting Agency** - the agency that forwarded the completed report on which an ACAS entry is based.

**Substantiated** - an investigator has determined based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred. Definition in Penal Code section 11165.12 (b), amended on January 1, 2005.

**Suspect** - a person who has been designated as a suspect in an agency's child abuse investigation and subsequently reported as such to DOJ.

**Unfounded** - an investigator has determined, based on facts, that there was no child abuse. Penal Code section 11165.12 states: "unfounded means . . . to be false, to be inherently improbable, to involve an accidental injury.

**Victim** - a person who has been designated as a victim in a child abuse investigation report and subsequently reported as such to DOJ.

# APPENDIX

# CHILD ABUSE INVESTIGATION REPORT

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

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Y

FOR DOJ USE ONLY

<b>A. INVESTIGATING AGENCY</b>	1. INVESTIGATING AGENCY (Enter complete name and check type)		POLICE	WELFARE	2. AGENCY REPORT NO./CASE NAME:	
			SHERIFF	PROBATION		
	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. ACTION TAKEN (check only one box):		10A. SUPPLEMENTAL INFORMATION (Attach copy of original report)			
(1) SUBSTANTIATED (Credible evidence of abuse)		(a) INCONCLUSIVE		(c) ADDITIONAL INFORMATION		
(2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)		(b) UNFOUNDED (false report, accidental, improbable)				
11. A clive investigation conducted per PC 11169(a)? Yes No* Victim(s) contacted? Yes No* Suspect(s) contacted? Yes No* No Suspects		Witness(es) contacted? Yes No* No witnesses *Explain in comments field A.12.				
12. COMMENTS:						

<b>B. INCIDENT INFORMATION</b>	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):		(1) PHYSICAL (2) MENTAL (3) SEXUAL (4) SEVERE NEGLECT (5) GENERAL NEGLECT			
	8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE		(1) FAMILY DAY CARE (2) CHILD CARE CENTER (3) FOSTER FAMILY HOME (4) SMALL FAMILY HOME		(5) GROUP HOME OR INSTITUTION-Enter name and address:	

<b>C. INVOLVED PARTIES</b>	<b>VICTIMS</b>	1. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	MALE	RACE	*	
		ADDRESS: Street City Zip Code		DID VICTIM'S INJURIES RESULT IN DEATH? YES NO		NATURE OF INJURIES:						
		PRESENT LOCATION OF VICTIM:		TELEPHONE NUMBER:		IS VICTIM DEVELOPMENTALLY DISABLED [4512(a) W&I]? YES NO						
		2. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	MALE	RACE	*	
		ADDRESS: Street City Zip Code		DID VICTIM'S INJURIES RESULT IN DEATH? YES NO		NATURE OF INJURIES:						
	PRESENT LOCATION OF VICTIM:		TELEPHONE NUMBER:		IS VICTIM DEVELOPMENTALLY DISABLED [4512(a) W&I]? YES NO							
	<b>SUSPECTS</b>	1. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	MALE	RACE	*	
		ADDRESS: Street City Zip Code		HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER:		DRIVER'S LICENSE NUMBER:		
		RELATIONSHIP TO VICTIM: (1) PARENT/STEPPARENT (2) SIBLING (3) OTHER RELATIVE (4) FRIEND/ACQUAINTANCE (5) STRANGER		Suspect given written notice per PC 11169(b) MO DA YR								
		Yes No Date notice given		If notice not given, explain in comments field A.12.								
2. NAME: Last First Middle AKA		DOB	MO	DA	YR	APPROX. AGE:	MALE	RACE	*			
ADDRESS: Street City Zip Code		HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER:		DRIVER'S LICENSE NUMBER:				
RELATIONSHIP TO VICTIM: (1) PARENT/STEPPARENT (2) SIBLING (3) OTHER RELATIVE (4) FRIEND/ACQUAINTANCE (5) STRANGER		Suspect given written notice per PC 11169(b) MO DA YR										
Yes No Date notice given		If notice not given, explain in comments field A.12.										
<b>OTHER</b>	1. NAME: Last First Middle		(1) PARENT/STEPPARENT		DOB	MO	DA	YR	APPROX. AGE:	MALE	RACE	*
	2. NAME: Last First Middle		(2) SIBLING		DOB	MO	DA	YR	APPROX. AGE:	MALE	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-Guyanese, U-Hawaiian, K-Korean, L-Latvian, S-Samoan, V-Vietnamese, O-Other, X-Unknown  
CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.

**CHILD ABUSE INVESTIGATION REPORT  
DEPARTMENT OF JUSTICE (DOJ) FORM SS 8583  
Guidelines for Use and Completion of Form SS 8583**

(For Specific Requirements Refer to the Child Abuse Reporting Law, California Penal Code Section 11165 through 11174.5)

**For immediate information on potential suspects/victims, please contact the Child Abuse Unit at (916) 227-3285.**

**Who Must Report**

**Interagency Reporting**

- Any police or sheriff's department, county welfare department, or county probation department (if designated by the county to receive mandated reports) must report every suspected incident of child abuse it receives to:
  - the law enforcement agency having jurisdiction over the case
  - the agency responsible for investigations under Welfare and Institutions Code Section 300
  - the district attorney's office

**DOJ Reporting**

- An agency must report every incident of suspected child abuse for which it conducts an active investigation and determines not to be unfounded to DOJ on the Form SS 8583.

*NOTE: Reports are not accepted from non-California agencies.*

**What Incidents Must Not Be Reported**

**Interagency Reporting**

- Incidents specifically exempted under cooperative arrangements with other agencies in your jurisdiction.

**DOJ Reporting**

- Unfounded reports - Reports that are determined to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6 PC (Section 11165.12 PC).
- Acts of nonexploitive, consensual sexual behavior between minors under the age of 14 years who are of similar age.
- Acts of negligence by a pregnant woman or other person(s) which adversely affect the well-being of a fetus.
- Past abuse of a child who is an adult at the time of disclosure.
- Child stealing, as defined in Sections 277 PC and 278 PC, unless it involves sexual abuse, physical abuse, mental/emotional abuse, and/or severe neglect.
- Reasonable and necessary force by school employees to quell a disturbance threatening physical injury to person or damage to property (Section 11165.4 PC).
- Statutory rape, as defined in Section 261.5 PC, except Section 261.5(d) PC (Statutes of 1997).
- Mutual fights between minors (Section 11165.6 PC).

**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:

**Interagency Reporting**

- sexual abuse
- physical abuse
- general neglect
- mental/emotional abuse
- severe neglect

*(Refer to Section 11165.1 through 11165.6 PC for citations and definitions)*

**DOJ Reporting**

- All of the above, excluding general neglect.
- Deaths of minors resulting from abuse or neglect.

**When Must the Report be Submitted**

**Interagency Reporting**

- Telephone notification - immediately or as soon as practical.
- Written notification - within 36 hours of receiving information concerning the incident.
- When an agency takes a report for which it lacks jurisdiction the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

**DOJ Reporting**

- A Form SS 8583 must be submitted after an active investigation has been conducted and the incident has been determined not to be unfounded. DOJ defines "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 investigating agency.

*NOTE: No other form will be accepted in lieu of the Form SS 8583.*

The suspect(s) must be notified in writing that he/she has been reported to the Child Abuse Central Index per PC Section 11169(b).

**What Information is Required**

**General Instructions**

- All information blocks contained on the Form SS 8583 should be completed by the investigating agency. If information is not available, indicate "UNK" in the applicable information block.

**Specific Instructions**

INFORMATION BLOCKS ON THE FORM SS 8583 WHICH ARE SHADED GRAY MUST BE COMPLETED. **THE SUBMITTED FORM WILL BE RETURNED TO THE CONTRIBUTOR WITHOUT FURTHER DEPARTMENT OF JUSTICE ACTION IF THE CONTRIBUTOR FAILS TO COMPLETE ANY OF THE FOLLOWING ITEMS:** the agency name and type, the agency's report number or case name; the action taken by the investigating agency; the specific type of abuse; the victim's name, birthdate or approximate age, and gender, and the suspect's name and birthdate or approximate age, and gender. If the suspect is not known, UNKNOWN must be entered. Verification must be provided that an active investigation was conducted, that victim(s), and any known suspect(s), and witness(es) were contacted. An explanation must be provided if these contacts were not made. Verification must be provided that the suspect was given written notification that he/she has been reported to the Child Abuse Central Index per Section 11169(b) PC. An explanation must be provided if there was no notification.

Section A, "INVESTIGATING AGENCY," information block 10, "ACTION TAKEN" or 10A, "SUPPLEMENTAL INFORMATION" must be completed in accordance with the following definitions (Check one of the boxes):

<p><b>10. ACTION TAKEN (check only one box):</b></p> <p>(1) <b>SUBSTANTIATED</b> (Credible evidence of abuse)</p> <p>(2) <b>INCONCLUSIVE</b> (Insufficient evidence of abuse, not unfounded)</p>	<p><b>10A. SUPPLEMENTAL INFORMATION (Attach copy of original report)</b></p> <p>(a) <b>INCONCLUSIVE</b></p> <p>(b) <b>UNFOUNDED</b> (false report, accidental, improbable)</p> <p>(c) <b>ADDITIONAL INFORMATION</b></p>
--	---

**10. ACTION TAKEN**

- 1 **SUBSTANTIATED** - Acts determined, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6 PC.
- 2 **INCONCLUSIVE** - Acts determined not to be unfounded, but there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6 PC, has occurred.

**10A. SUPPLEMENTAL INFORMATION** - Only use this section to update information previously submitted on Form SS 8583.

- a **INCONCLUSIVE** - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" is being reclassified to "INCONCLUSIVE."
- b **UNFOUNDED** - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED," "UNSUBSTANTIATED" or "INCONCLUSIVE" is being reclassified to "UNFOUNDED."
- c **ADDITIONAL INFORMATION** - Supplementary information is being provided for a previously submitted Form SS 8583.

**Where To Send The Report Form SS 8583 (For DOJ reporting only)**

Department of Justice  
Bureau of Criminal Information and Analysis  
P. O. Box 903387  
Sacramento, CA 94203-3870  
ATTENTION: Child Abuse Unit

**REMEMBER**

Submit completed Form SS 8583 to DOJ as soon as possible after completion of the investigation because the case information may contribute to the success of another investigation. It is essential that the report be complete, accurate and timely to provide the maximum benefit in protecting children and identifying and prosecuting suspects. If you have questions about DOJ REPORTING or need a victim or suspect name check, call the DOJ Child Abuse Unit at (916) 227-3285 or CALNET 498-3285.

# SUSPECTED CHILD ABUSE REPORT

To Be Completed by **Mandated Child Abuse Reporters**  
Pursuant to Penal Code Section 11166

CASE NAME: \_\_\_\_\_

PLEASE PRINT OR TYPE

CASE NUMBER: \_\_\_\_\_

<b>A. REPORTING PARTY</b>	NAME OF MANDATED REPORTER	TITLE	MANDATED REPORTER CATEGORY				
	REPORTER'S BUSINESS/AGENCY NAME AND ADDRESS	Street	City	Zip	DID MANDATED REPORTER WITNESS THE INCIDENT? YES NO		
	REPORTER'S TELEPHONE (DAYTIME) ( )	SIGNATURE		TODAY'S DATE			
<b>B. REPORT NOTIFICATION</b>	LAW ENFORCEMENT COUNTY PROBATION AGENCY	COUNTY WELFARE / CPS (Child Protective Services)					
	ADDRESS	Street	City	Zip	DATE/TIME OF PHONE CALL		
	OFFICIAL CONTACTED - TITLE			TELEPHONE ( )			
<b>C. VICTIM</b> One report per victim	NAME (LAST, FIRST, MIDDLE)			BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY	
	ADDRESS	Street	City	Zip	TELEPHONE ( )		
	PRESENT LOCATION OF VICTIM			SCHOOL	CLASS	GRADE	
	PHYSICALLY DISABLED? YES NO	DEVELOPMENTALLY DISABLED? YES NO	OTHER DISABILITY (SPECIFY)			PRIMARY LANGUAGE SPOKEN IN HOME	
	IN FOSTER CARE? YES NO	IF VICTIM WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: DAY CARE CHILD CARE CENTER FOSTER FAMILY HOME FAMILY FRIEND GROUP HOME OR INSTITUTION RELATIVES HOME			TYPE OF ABUSE (CHECK ONE OR MORE) PHYSICAL MENTAL SEXUAL NEGLECT OTHER (SPECIFY)		
	RELATIONSHIP TO SUSPECT			PHOTOS TAKEN? YES NO	DID THE INCIDENT RESULT IN THIS VICTIM'S DEATH? YES NO UNK		
	VICTIM'S SIBLINGS			VICTIM'S SIBLINGS			
1. NAME BIRTHDATE SEX ETHNICITY			3. NAME BIRTHDATE SEX ETHNICITY				
2. _____			4. _____				
<b>D. INVOLVED PARTIES</b>	NAME (LAST, FIRST, MIDDLE)			BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY	
	ADDRESS	Street	City	Zip	HOME PHONE ( )	BUSINESS PHONE ( )	
	NAME (LAST, FIRST, MIDDLE)			BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY	
	ADDRESS	Street	City	Zip	HOME PHONE ( )	BUSINESS PHONE ( )	
	SUSPECT'S NAME (LAST, FIRST, MIDDLE)			BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY	
	ADDRESS			Street	City	Zip	TELEPHONE ( )
OTHER RELEVANT INFORMATION							
<b>E. INCIDENT INFORMATION</b>	IF NECESSARY, ATTACH EXTRA SHEET(S) OR OTHER FORM(S) AND CHECK THIS BOX			IF MULTIPLE VICTIMS, INDICATE NUMBER:			
	DATE / TIME OF INCIDENT		PLACE OF INCIDENT				
	NARRATIVE DESCRIPTION (What victim(s) said/what the mandated reporter observed/what person accompanying the victim(s) said/similar or past incidents involving the victim(s) or suspect)						

SS 8572 (Rev. 12/02)

### DEFINITIONS AND INSTRUCTIONS ON REVERSE

**DO NOT** submit a copy of this form to the Department of Justice (DOJ). The investigating agency is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS 8583 if (1) an active investigation was conducted and (2) the incident was determined not to be unfounded.

WHITE COPY-Police or Sheriff's Department; BLUE COPY-County Welfare or Probation Department; GREEN COPY- District Attorney's Office; YELLOW COPY-Reporting Party



DEFINITIONS AND GENERAL INSTRUCTIONS FOR COMPLETION OF FORM SS 8572

All Penal Code (PC) references are located in Article 2.5 of the PC. This article is known as the Child Abuse and Neglect Reporting Act (CANRA). The provisions of CANRA may be viewed at: <http://www.leginfo.ca.gov/calaw.html> (specify "Penal Code" and search for Sections 11164-11174.3). A mandated reporter must complete and submit the form SS 8572 even if some of the requested information is not known. (PC Section 11167(a).)

I. MANDATED CHILD ABUSE REPORTERS

- Mandated child abuse reporters include all those individuals and entities listed in PC Section 11165.7.

II. TO WHOM REPORTS ARE TO BE MADE ("DESIGNATED AGENCIES")

- Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department or sheriff's department (not including a school district police or security department), the county probation department (if designated by the county to receive mandated reports), or the county welfare department. (PC Section 11165.9.)

III. REPORTING RESPONSIBILITIES

- 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 or neglect shall report such suspected incident of abuse or neglect to a designated 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. (PC Section 11166(a).)
- No mandated reporter who reports a suspected incident of child abuse or neglect shall be held civilly or criminally liable for any report required or authorized by CANRA. Any other person reporting a known or suspected incident of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by CANRA unless it can be proven the report was false and the person knew it was false or made the report with reckless disregard of its truth or falsity. (PC Section 11172(a).)

IV. INSTRUCTIONS

- **SECTION A - REPORTING PARTY:** Enter the mandated reporter's name, title, category (from PC Section 11165.7), business/agency name and address, daytime telephone number, and today's date. Check yes-no whether the mandated reporter witnessed the incident. The signature area is for either the mandated reporter or, if the report is telephoned in by the mandated reporter, the person taking the telephoned report.

IV. INSTRUCTIONS (Continued)

- **SECTION B - REPORT NOTIFICATION:** Complete the name and address of the designated agency notified, the date/time of the phone call, and the name, title, and telephone number of the official contacted.
- **SECTION C - VICTIM (One Report per Victim):** Enter the victim's name, address, telephone number, birth date or approximate age, sex, ethnicity, present location, and, where applicable, enter the school, class (indicate the teacher's name or room number), and grade. List the primary language spoken in the victim's home. Check the appropriate yes-no box to indicate whether the victim may have a developmental disability or physical disability and specify any other apparent disability. Check the appropriate yes-no box to indicate whether the victim is in foster care, and check the appropriate box to indicate the type of care if the victim was in out-of-home care. Check the appropriate box to indicate the type of abuse. List the victim's relationship to the suspect. Check the appropriate yes-no box to indicate whether photos of the injuries were taken. Check the appropriate box to indicate whether the incident resulted in the victim's death.
- **SECTION D - INVOLVED PARTIES:** Enter the requested information for: Victim's Siblings, Victim's Parents/Guardians, and Suspect. Attach extra sheet(s) if needed (provide the requested information for each individual on the attached sheet(s)).
- **SECTION E - INCIDENT INFORMATION:** If multiple victims, indicate the number and submit a form for each victim. Enter date/time and place of the incident. Provide a narrative of the incident. Attach extra sheet(s) if needed.

V. DISTRIBUTION

- **Reporting Party:** After completing Form SS 8572, retain the yellow copy for your records and submit the top three copies to the designated agency.
- **Designated Agency:** *Within 36 hours* of receipt of Form SS 8572, send **white copy** to police or sheriff's department, **blue copy** to county welfare or probation department, and **green copy** to district attorney's office.

ETHNICITY CODES

1 Alaskan Native	6 Caribbean	11 Guamanian	16 Korean	22 Polynesian	27 White-Armenian
2 American Indian	7 Central American	12 Hawaiian	17 Laotian	23 Samoan	28 White-Central American
3 Asian Indian	8 Chinese	13 Hispanic	18 Mexican	24 South American	29 White-European
4 Black	9 Ethiopian	14 Hmong	19 Other Asian	25 Vietnamese	30 White-Middle Eastern
5 Cambodian	10 Filipino	15 Japanese	21 Other Pacific Islander	26 White	31 White-Romanian

**REVIEW OF COMMISSION STAFF'S PARAMETERS AND GUIDELINES  
INTERAGENCY CHILD ABUSE AND NEGLECT INVESTIGATION REPORTS**

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# CALIFORNIA MEDICAL PROTOCOL FOR EXAMINATION OF CHILD PHYSICAL ABUSE AND NEGLECT VICTIMS



State of California  
Governor's Office of Emergency Services

Available at: [www.oes.ca.gov](http://www.oes.ca.gov)  
Criminal Justice Programs Division  
Publications and Brochures

## PREFACE

Pioneers in the field of child physical abuse and neglect began in the field of medicine. They were subsequently joined by the disciplines of social work, nursing, law enforcement, psychology, psychiatry, and child development.

The history of this intervention movement is characterized by peaks and plateaus as the larger community assimilated new developments lead by the pioneering disciplines. Medicine began the movement with published observations by a pediatric radiologist, Dr. John Caffey, in the 1940's. Dr. Henry Kempe, a pediatrician, galvanized the movement by establishing the concept of the "battered child syndrome" in 1962. He took his concerns to Congress and by 1965, most states had enacted child abuse reporting laws.

Issuance of the OES 900 Medical Report for Suspected Child Physical Abuse and Neglect Examinations and Protocol takes the field to a new level. In 2002, the California Legislature and Governor declared that adequate protection of victims of child physical abuse and neglect has been hampered by the lack of consistent and comprehensive medical examinations. The Legislature enacted and the Governor signed SB 580, Statutes of 2002 (Figueroa), into law to address this need by establishing a standardized medical report form and protocol.

Many deserve recognition for the vision captured in these documents. The Children's Justice Act Task Force recommended the allocation of funds to accomplish this project; the Child Physical Abuse and Neglect Advisory Committee contributed wisdom, consultation, and guidance; and, the California Medical Training Center at the University of California, Davis is commended for strong work, expertise, and dedication to the production of the form, instructions, and protocol. This collective effort moves the field forward on behalf of children.

The California Medical Protocol for Examination of Suspected Child Physical Abuse and Neglect Victims provides recommended methods for meeting the minimum legal standards established by Penal Code Section 11171 for performing medical examinations of physically abused and neglected children. This protocol contains the following information:

- Standard medical report form (OES 900) for documentation of findings from suspected child physical abuse and neglect examinations;
- Step-by-step procedures for conducting examinations opposite each page of the standard forms;
- Examination protocol for child physical abuse and neglect;
- Contextual information for performing examinations and implementing a multi-disciplinary team approach; and
- Relevant and expanded information on patient consent, mandatory reporting laws, financial compensation for examinations, crime victim compensation, and evidence collection and preservation.

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## CHAPTER I

### USE OF STANDARDIZED FORMS AND TRAINING

In 2002, the California Legislature enacted and the Governor signed SB 580 Statutes of 2002 (Figueroa) into law to amend the penal code pertaining to the performance of medical examinations for physically abused and neglected children. See **Appendix A** for a copy of this penal code section. The Legislature declared that:

- Adequate protection of victims of child physical abuse and neglect has been hampered by the lack of consistent and comprehensive medical examinations; and
- Enhancing examination procedures, documentation, and evidence collection relating to child abuse and neglect will improve the investigation of child abuse and neglect as well as other child protection efforts.

#### A. CHILD PHYSICAL ABUSE AND NEGLECT EXAMINATIONS

As a result, the Governor's Office of Emergency Services issued effective January 1, 2004 the OES 900 Medical Report: Suspected Child Physical Abuse and Neglect Examination for recording the results of medical examinations.

OES 900	<b>Medical Report: Suspected Child Physical Abuse and Neglect Examination</b> <ul style="list-style-type: none"> <li>• Suspected child physical abuse and neglect</li> <li>• Examination of children and adolescents under age 18</li> </ul>
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#### B. CHILD SEXUAL ABUSE EXAMINATIONS

In 1984, the California Legislature enacted legislation to establish standardized procedures for the performance of child sexual abuse and sexual assault medical evidentiary examinations. California Penal Code Section 13823.5 requires the use of these standard forms for examinations of victims of child sexual abuse and adult and adolescent sexual assault.

##### Required Standard State Forms for Child Sexual Abuse and Sexual Assault Exams

OES 923	Forensic Medical Report: Acute (<72 hours) Adult/Adolescent Sexual Assault Examination
OES 925	Forensic Medical Report: Nonacute (>72 hours) Child/Adolescent Sexual Abuse Examination
OES 930	Forensic Medical Report: Acute (<72 hours) Child/Adolescent Sexual Abuse Examination

##### Recommended Standard State Form

OES 950	Forensic Medical Report: Sexual Assault Suspect Examination
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**Key terms for Sexual Assault and Child Sexual Abuse Examinations**

These terms are used to describe time frames. They are not intended to suggest that, after 72 hours, a complete examination should not be done. It is not uncommon to detect physical findings after 72 hours.

<b>Acute</b>	<b>Less than 72 hours have passed since the incident (&lt;72 hours)</b>
<b>Nonacute</b>	<b>More than 72 hours have passed since the incident (&gt;72 hours)</b>

**C. SUGGESTED USE OF THE STANDARD STATE FORMS: FOLLOW LOCAL POLICY**

<b>OES 923</b>	<b>Forensic Medical Report: Acute (&lt;72 hours) Adult/Adolescent Sexual Assault Examination</b> <ul style="list-style-type: none"> <li>• History of <b>acute sexual assault</b> (&lt;72 hours)</li> <li>• Examination of adults (age 18 and over) and adolescents (ages 12-17)</li> </ul>
<b>OES 925</b>	<b>Forensic Medical Report: Nonacute (&gt;72 hours) Child/Adolescent Sexual Abuse Examination</b> <ul style="list-style-type: none"> <li>• History of <b>nonacute sexual abuse</b> (&gt;72 hours)</li> <li>• Examination of children and adolescents under age 18</li> </ul>
<b>OES 930</b>	<b>Forensic Medical Report: Acute (&lt;72 hours) Child/Adolescent Sexual Abuse Examination</b> <ul style="list-style-type: none"> <li>• History of <b>chronic sexual abuse (incest) and recent incident</b> (&lt;72 hours)</li> <li>• Examination of children and adolescents under age 18</li> </ul>
<b>OES 950</b>	<b>Forensic Medical Report: Sexual Assault Suspect Examination</b> <ul style="list-style-type: none"> <li>• Examination of person(s) suspected of sexual assault or child sexual abuse</li> </ul>

**D. TRAINING**

The California Medical Training Center (CMTC) was established by Penal Code Section 13823.93 and is grant funded to provide training for physicians and nurses on how to perform medical evidentiary examinations for victims of:

- Child physical abuse and neglect;
- Child sexual abuse;
- Sexual assault;
- Domestic violence; and
- Elder and dependent adult abuse and neglect.

Training is also provided to criminal justice and investigative social services personnel on the interpretation of medical findings for use in case investigations, prosecution, and for others involved in the evaluation of medical evidence. See **Appendix B** for information on how to contact the California Medical Training Center at the University of California, Davis.

The California Medical Training Center at the University of California, Davis developed the OES 900 form, instructions and examination protocol under an additional grant from the Governor’s Office of Criminal Justice Planning (now the Governor’s Office of Emergency Services).



## CHAPTER II

### MANDATORY REPORTING AND CONFIDENTIALITY OF REPORTS

#### A. MANDATORY REPORTING

The Child Abuse and Neglect Reporting Act is contained in Penal Code Section 11164-11174.4. The intent and purpose of the mandatory reporting law is to protect children from abuse and neglect. As used in this section, a child means a person under the age of 18.

##### 1. Health practitioners are mandated reporters

There are 35 categories of professionals, paraprofessionals and employees of institutions, organizations, and commercial film and photographic print processing companies required to report suspected child abuse and neglect pursuant to Penal Code Section 11165.7. See **Appendix C** for a list of these categories.

Health practitioners are required to report known or suspected child abuse and neglect **immediately by telephone and to submit a written report within 36 hours** to a child protective agency.

- A health practitioner means a physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code (Penal Code Section 11165.7).
- Related categories include emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a coroner, and a medical examiner.
- A child protective agency means a law enforcement agency, the county department of social services, or the county probation department.
- The obligation of mandated reporters to make a report to a child protective agency arises when they, in their professional capacity or within the scope of their employment, have knowledge of or observe a child who they know or reasonably suspect has been the victim of child abuse (Penal Code Section 11166).
- The term "reasonable suspicion" means that 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 and

experience, to suspect child abuse and neglect. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a reason for a reasonable suspicion of child sexual abuse (Penal Code Section 11166).

- For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself, a sufficient basis for reporting child abuse and neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Section 123605 of the Health and Safety Code. If other factors are present that indicate risk to a child, then a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse shall be made only to a county welfare or probation department, and not to a law enforcement agency (Penal Code Section 11165.3).
- No supervisor or administrator may impede or inhibit these reporting duties and no person making such a report shall be subject to any sanction for making the report (Penal Code Section 11166).

## **2. Criminal penalties for failure to report child abuse or neglect**

The failure of a mandated reporter to report known or suspected child abuse or neglect is punishable by a fine not to exceed \$1,000, by imprisonment in the county jail for a period not to exceed six months, or both (Penal Code Section 11166).

## **3. Telephone and written report requirements (Penal Code Sections 11165-11168)**

- Make an immediate telephone report to a child protective agency and include the following information:
  - Name of the person making the report;
  - Name of the child;
  - Present location of the child;
  - Nature and extent of the injury; and
  - Other information requested by the child protective agency.
- Submit a written report to a child protective agency within 36 hours, using the Suspected Child Abuse Report Form (DOJ SS 8572). See **Appendix D** for a copy of this form. See **Appendix E** for a list of Child Protective Services (CPS) agencies for every county in California to obtain information and training on the use of the form.
- When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the

team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report (Penal Code Section 11166).

**4. Immunity from civil or criminal liability for complying with the child abuse reporting law**

- Health practitioners and others required to report known or suspected child abuse cannot be held civilly or criminally liable for any report required or authorized by the child abuse reporting law (Penal Code Section 11172).
- Physicians and hospitals may be held liable for injuries sustained by a child for failure to diagnose and report child abuse to authorities resulting in the child being returned to the parents and receiving further injuries by them (Landeros v. Flood, (1926) 131 CAL. RPTER 69, 551 P.2d 389, 17 C.3d 399, 97 A.L.R. 3d 324).

**5. Definitions of unfounded, substantiated, and inconclusive reports used by child protective agencies (Penal Code Section 11165.12)**

**Unfounded Report**

Unfounded report means a report that is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Penal Code Section 11165.6.

**Substantiated Report**

Substantiated report means a report that is determined by the investigator who conducted the investigation, based upon some credible evidence, to constitute child abuse or neglect, as defined in Penal Code Section 11165.6.

**Inconclusive Report**

Inconclusive report means a report that is determined by the investigator who conducted the investigation not to be unfounded, but one in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

**B. CONFIDENTIALITY OF REPORTS**

**1. Confidentiality of suspected child abuse and neglect report forms**

Written reports required by the child abuse reporting law are confidential and can only be released to agencies receiving or investigating mandated reports (law enforcement or child protective services); to the district attorney involved in a

criminal prosecution; counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code; county counsel; a county or state licensing agency when abuse or neglect in out-of-home care is reasonably suspected; coroners; medical examiners; and multi-disciplinary personnel teams as defined in Section 18951 of the Welfare and Institutions Code; Hospital SCAN Teams; and other specified institutional entities (Penal Code Section 11167.5). Any violation of confidentiality is punishable by up to six months in jail, by a fine of \$500, or both (Penal Code Section 11167.5).

- **Multi-disciplinary Team**

Multi-disciplinary personnel, defined in Welfare and Institutions Code Section 18951, means any team of three or more persons who are trained in the prevention, identification, and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse.

The team may include, but not be limited to:

- Psychiatrists, psychologists, or other trained counseling personnel;
- Police officers or other law enforcement agents;
- Medical personnel with sufficient training to provide health services;
- Social workers with experience or training in child abuse prevention; and
- Any public or private school teacher, administrative officer, supervisor of child welfare attendance, or certified pupil personnel employee.

- **Hospital SCAN Team**

A hospital SCAN (Suspected Child Abuse and Neglect) team means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital SCAN teams (Penal Code Section 11167.5).

## **2. Release of medical reports of suspected child abuse and neglect**

Medical report(s) are subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act (Penal Code 11164-11174.4 or privilege), the Medical Information Act (Civil Code Section 58 et seq.), the Physician-Patient Privilege (Evidence Code Section 990), and the Official Information Privilege (Evidence Code Section 1040). They can only be released to those involved in the investigation and prosecution of the case: a law enforcement officer, district attorney, city attorney, crime laboratory, child protective services social worker, a child abuse and neglect multi-disciplinary team member, county licensing agency, and coroner. Medical reports can only be released to the defense counsel through discovery of documents in the possession of a prosecuting agency or after the appropriate court process (i.e., judicial review and a court order).

## CHAPTER VIII

### EXAMINATION PROTOCOL: CHILD NEGLECT

#### A. EVALUATION OF CHILD NEGLECT

##### 1. Obtain a complete medical history in children presenting with any condition suspected of being the result of neglect

- Obtain the birth history and weight at birth.
- Ask whether the mother received prenatal care.
- What immunizations has the child had?
- Has the child received the appropriate health care over his/her lifetime?
- Does the child have a primary care provider?
- What is the baby's diet? Does the family have sufficient resources to meet everyone's nutritional needs? Do they receive food stamps? How often does the family skip a meal because of inadequate resources?
- Obtain a history of developmental milestones.
- Obtain information about schooling and school attendance. How often have children missed school during the previous six months? What school do they attend and what is their school performance?
- Where does the family live? Who else lives in the household?
- Obtain a social history, including economic resources, educational level of parents, substance abuse and incarceration. Who cares for the child when the parents are not available? Is extended family available?

##### 2. Perform a complete physical examination

- Weigh and measure the child, and plot measurements for gender and age on appropriate growth curves. When possible, review all prior growth parameters to determine whether growth impairment, if present, has been chronic or is of recent onset.
- Assess nutrition and hygiene. Evidence of substandard nutrition can be noted on physical examination in the form of diminished subcutaneous tissue.
- Assess bruises, scars, untreated injuries. Neglected children are at increased risk of physical abuse and for accidental injuries because of a general lack of supervision.
- Screen for sexual abuse. Neglected and homeless children are at risk for sexual victimization.
- Assess hygiene and absence of appropriate clothing (e.g. , cleanliness, smelling of urine or stool, or lack of shoes and clothing).

- Assess healthcare history.
  - Has there been lack of care for accidental injuries?
  - If there is a chronic medical condition, has there been treatment?
  - What are physical findings relevant to the condition?
- Review immunizations to ascertain whether the child is up to date. Depending upon the circumstances of the case, records may need to be obtained from schools, other hospitals and clinics, the local CHDP (Child Health, Disability, and Prevention Program), or the CWS/CMS system (a computerized database for managing information about children in the California child welfare system).
- Note clingy, aggressive, or overly-compliant behavior when experiencing painful procedures.

**3. Screen for dental problems**

Unattended dental cavities are frequently present in neglected children. Signs and symptoms of dental neglect include untreated, rampant cavities; untreated pain, infection, bleeding, or trauma; and/or lack of continuity of care once informed that the above conditions exist.

**4. Screen for developmental problems (e.g., motor skills, speech and language delay)**

This screening should include the following areas: developmental milestones and history, sensorymotor abilities, speech and language acquisition, fine and gross motor skills, socio-emotional functioning, and adaptive skills (e.g., eating patterns, sleeping, etc.).

**5. Order laboratory testing, if indicated**

Laboratory tests should be ordered to diagnose and evaluate untreated and/or chronic medical conditions and to ascertain whether there are conditions which may be mistaken for neglect. In general, a hemoglobin is an appropriate study to obtain to determine if the child is anemic. Obtaining lead levels for children under six years of age is recommended.

**6. Order imaging studies, if indicated**

Skeletal trauma series are indicated in children under the age of two years who have signs of severe neglect. The purpose of these studies is to detect the presence of occult fractures.

Additional imaging studies are rarely needed in the assessment of the child who has been physically neglected unless there is some underlying medical condition that warrants such an evaluation. For instance, the child with recurrent urinary tract infections who has not been given the prophylactic antibiotics might need a renal scan to determine the extent of renal scarring that has developed.

**7. Assess whether the mother or caretaker will follow through to ensure that the medical problems will be addressed**

- Has the mother been reliable in the past on medical follow-up?
- Has anything new developed to prevent the mother from following up on recommended treatment (e.g. alcohol or drug problems, domestic violence, abusive, controlling boyfriend, or mental health problems)?
- What resources does the family need to ensure compliance (e.g., transportation)?
- Is the neglect representative of an isolated incident that occurred because of an unusual set of circumstances that has since been remedied? Or, are there risk factors which suggest that the child is at continued risk in their environment? Is the family in need of community resources that require the mobilization of social service agencies?
- Evaluate whether Children's Protective Services should be involved. Most cases of neglect require an evaluation not only by medical personnel, but also by social services because there are many factors which contribute to a child being neglected. An extensive medical and psychosocial evaluation is key to assuring a good outcome.

**B. LEGAL DEFINITIONS: SEVERE AND GENERAL NEGLECT**

Neglect means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person. Severe and general neglect are defined below by Penal Code Section 11165.2.

**1. Severe neglect**

Severe neglect means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive. Severe neglect also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Penal Code Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

**2. General neglect**

General neglect means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code, or not receiving specified medical treatment for religious reasons, shall not for that reason alone be

considered a neglected child. An informed and appropriate medical decision made by the parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

### C. CLINICAL PRESENTATION OF NEGLECT

#### 1. General Neglect

Children who are neglected may come to medical attention for a variety of reasons. Sometimes they are brought to the physician for an unrelated infectious illness, and evidence of neglect is apparent on physical examination. For instance, the child may appear dirty, smell of urine or stool, and be underweight. Other times, neglect may result in children sustaining a serious injury, such as being burned or drowned because of inadequate supervision. Children who receive inadequate food may present with growth impairment. Children with emotional neglect may experience behavioral or conduct problems in school. Some children die as a result of neglect, and these cases are usually evaluated by the medical examiner's office.

#### 2. Physical Neglect Refusal of Health Care

Failure to provide or allow needed care in accordance with recommendations of a competent health care professional for a physical injury, illness, medical condition, or impairment.

#### Delay in Health Care

Failure to seek timely and appropriate medical care for a serious health problem which any reasonable person would have recognized as needing professional medical attention.

#### Abandonment

Desertion of a child without arranging for reasonable care and supervision. This category includes cases in which children are not claimed within two days, and when children are left by parents/substitutes who give no (or false) information about their whereabouts.

#### Drug Endangered Children (DEC)

Children removed from drug manufacturing homes or homes with extensive drug use are often subject to severe neglect and accidental drug ingestion through common food and drink products in the home and exposure to trays of drug powder or crystals and residue.



<b>Expulsion</b>	Other blatant refusals of custody, such as permanent or indefinite expulsion of a child from the home without adequate arrangement for care by others, or refusal to accept custody of a returned runaway.
<b>Other Custody Issues</b>	Custody-related forms of inattention to the child's needs other than those covered by abandonment or expulsion. For example, repeated shuttling of a child from one household to another due to unwillingness to maintain custody, or chronically and repeatedly leaving a child with others for days/weeks at a time.
<b>Other Physical Neglect</b>	Conspicuous inattention to avoidable hazards in the home; inadequate nutrition, clothing, or hygiene; and, other forms of reckless disregard for the child's safety and welfare, such as driving with the child while under the influence of drugs or alcohol, or leaving a young child unattended in a motor vehicle.
<b>3. Inadequate Supervision</b>	Child left unsupervised or inadequately supervised for extended periods of time or allowed to remain away from home overnight without the parent/substitute knowing (or attempting to determine) the child's whereabouts.
<b>4. Emotional Neglect</b>	
<b>Inadequate Nurturance/Affection</b>	Marked inattention to the child's needs for affection, emotional support, attention, or competence.
<b>Chronic/Extreme Abuse or Domestic Violence</b>	Chronic or extreme spouse abuse or other domestic violence.
<b>Permitted Drug/Alcohol Abuse</b>	Encouraging or permitting drug or alcohol use by the child, or cases where parent/guardian was informed of the problem and did not attempt to intervene.
<b>Refusal of Psychological Care</b>	Refusal to allow needed and available treatment for a child's emotional or behavioral impairment or problem in accord with competent professional recommendation.

**Delay in Psychological Care**

Failure to seek or provide needed treatment for a child's emotional or behavioral impairment or problem which any reasonable person would have recognized as needing professional psychological attention (e.g., severe depression, suicide attempt).

**Other Emotional Neglect**

Other inattention to the child's developmental/emotional needs not classifiable under any of the above forms of emotional neglect (e.g., markedly overprotective restrictions which foster immaturity or emotional overdependence, chronically applying expectations clearly inappropriate in relation to the child's age or level of development, etc.).

**5. Educational Neglect**

**Permitted Chronic Truancy**

Habitual truancy averaging at least five days a month is classifiable under this form of maltreatment, if the parent/guardian has been informed of the problem, and has not attempted to intervene.

**Failure to Enroll/ Other Truancy**

Failure to register or enroll a child of mandatory school age, causing the school-aged child to remain at home for nonlegitimate reasons (e.g., to work, to care for siblings) an average of at least three days a month.

**Inattention to Special Education Needs**

Refusal to allow or failure to obtain recommended remedial educational services, or neglect in obtaining or following through with treatment for a child's diagnosed learning disorder, or other special educational needs without reasonable cause.

**6. Additional commentary on definitions**

**Medical neglect**

Medical neglect may occur for acute problems, such as burns or injuries that are sustained accidentally; acute illnesses, such as gastroenteritis; or, for routine health maintenance. Some parents do access health care when their children have chronic problems, but then fail to follow the recommendations of the physician. For instance, a child with asthma may be prescribed several medications none of which are administered. As a result, the child may require repeated hospitalizations including admission to an intensive care unit.

Parents may utilize nontraditional medicine to treat their child's ailment. Examples of such practices include cao gio, or coining and moxibustion. Residual bruises from these practices may be mistaken for inflicted trauma. The use of non-traditional medicine is not condemned so long as it does not interfere with the child receiving appropriate medical care, and does not harm the child.

### **Child abandonment**

Abandonment may involve frank abandonment, such as when a child is left in a trash dumpster, or, left alone, unprotected in a house or apartment without any adult supervision. Abandonment also occurs when a parent leaves the child in the care of others and then fails to return at an appointed time. Inadequate supervision is another form of abandonment as well as cases where both parents renege on their responsibilities as parents. Adolescents who are expelled from the home because of "misbehavior" are abandoned. These adolescents are frequently referred to as "throwaways."

### **Delay in accessing medical care**

- Parents may not have the financial means to pay for healthcare, and they delay seeking treatment in the hope that the illness will resolve on its own;
- Parents are unsophisticated and do not appreciate the seriousness of the illness;
- Parents are overtly negligent, and simply do not provide for their child's health care needs;
- Parents are developmentally disabled or mentally ill and cannot properly care for their child; or,
- Parents whose child has been physically and/or sexually abused and they are trying to prevent this matter from coming to the attention of authorities.

### **Lack of supervision**

Children who are left unsupervised may die as a result of such neglect. Common examples include children who die in house fires, from drowning, starvation, or inadequate medical care.

### **Religious beliefs**

Some parents refuse medical care because of religious beliefs. Consult with Child Protective Services (CPS) and follow local protocol.

## **E. PATHOPHYSIOLOGY**

There are many factors that contribute to neglect. Parental factors include maternal depression, parental substance abuse, maternal developmental delay or retardation, and lack of education. There are also features in the child that place additional stress on the parent-child relationship. Children with chronic disabilities may strain the resources of a family. Similarly, infants who have been born prematurely are at increased risk of being neglected or abused. Bonding between a mother and her premature infant may be interrupted because of the separation between the two during the early period after birth. Sometimes the “goodness of fit” between the infant and mother is lacking, and the pair do not act as a reciprocal dyad.

Certain family features are also associated with neglect. These include absent or negative interactions between family members. Poor parenting skills may also be noted. There is frequently social isolation and a single parent struggling with stressors such as unemployment, illness (including mental illness), prison, and eviction. On a more global scale, community and societal factors also contribute to the risk of neglect. The lack of child care in a community means that single parents may leave young children inadequately supervised in order to go to work. The lack of convenient public transportation may impact access to medical care. Poverty, violence, and substandard educational resources all contribute to neglect within certain populations. For instance, in neighborhoods perceived to be unsafe, children are frequently prohibited from playing outdoors and forming normal friendships because of safety concerns.

## **F. DIFFERENTIAL DIAGNOSIS**

In any child who presents with a medical condition that may be related to neglect, healthcare providers must explore other explanations that could account for the findings. Children who appear to be malnourished may suffer from a number of medical problems that affect their ability to grow and gain weight. Children who present with injuries need to be evaluated for the circumstances surrounding the injury. Did the parent’s action contribute to the child being injured? Were these actions substandard, or would other parents have acted in a similar manner? For instance, if a child accidentally drowns in a bathtub, what reasons were given for leaving the child unattended?

The differential diagnosis of physical neglect depends on the presenting complaint. Children who are inadequately clothed may present with hypothermia. The differential diagnosis would include overwhelming sepsis, drug-exposure (COOLS - carbon monoxide, opiates, oral hypoglycemics [insulin], liquor, sedative-hypnotics), or

environmental exposure. Children with refractory medical conditions such as intractable asthma or unstable diabetes may be viewed as medically fragile, if the issue of non-compliance is not raised. Failure to obtain medical care in a timely manner may result in disease progression to a point where diagnosis and medical intervention are more difficult.

This chapter is a condensed version of the article entitled "Child Neglect" by Carol Berkowitz, M.D. from the book Child Abuse and Neglect: Guidelines for Identification, Assessment, and Case Management, published by Volcano Press, 2003 ([www.volcanopress.com](http://www.volcanopress.com)).

This publication contains extensive chapters on the identification, assessment and case management of various forms of child abuse and neglect written by over 95 experts in the field. This project was partially funded by the Governor's Office of Criminal Justice Planning (now the Governor's Office of Emergency Services), State Maternal and Child Health, and Volcano Press, Inc. as a public/private partnership.

## CHAPTER IX

### IMPORTANT CONSIDERATIONS IN THE COLLECTION AND PRESERVATION OF EVIDENCE

#### A. CRIME LABORATORIES

Crime laboratories analyze and interpret evidence collected during the medical evidentiary examination. There are 31 public crime laboratories in California: 19 city and county laboratories and 12 California Department of Justice laboratories. There are also a number of privately operated crime laboratories. Crime laboratories have slightly different requirements for the collection and disposition of some types of evidence.

#### B. ENSURING EVIDENCE INTEGRITY

##### 1. Key components of proper evidence handling are:

- Placing items in appropriate evidence containers;
- Labeling the evidence containers;
- Sealing the evidence containers;
- Storing evidence in a secure area; and
- Maintaining the chain of custody.

##### 2. Use appropriate evidence containers to ensure that evidence cannot leak through the container, be lost, or deteriorate.

• Slide mailers	To protect slides.
• Bindles and other small containers	To protect items that can be easily lost such as crusted materials, soil, and small fibers. Bindles and other small protective containers are then placed into the evidence collection envelopes or boxes described below.
• Envelopes or boxes	To protect evidence such as swabs, reference hair samples, and foreign materials, and to hold the small containers listed above.
• Evidence kit container	A larger envelope or box to hold the individual evidence collection envelopes, small boxes, and slide mailers. The outside of the evidence kit container must have a chain of custody form printed on it or securely attached.
• Paper bags	To hold clothing.

The following chart, not meant to be all-inclusive, is a list of suggested containers for different types of evidence:

Items	Suggested Containers
<ul style="list-style-type: none"> <li>• Swabs (dried)</li> </ul>	<ul style="list-style-type: none"> <li>• Envelopes</li> <li>• Boxes</li> </ul>
<ul style="list-style-type: none"> <li>• Slides (dried)</li> </ul>	<ul style="list-style-type: none"> <li>• Slide mailers</li> </ul>
<ul style="list-style-type: none"> <li>• Large foreign materials (e.g., hairs, grass)</li> </ul>	<ul style="list-style-type: none"> <li>• Envelopes</li> </ul>
<ul style="list-style-type: none"> <li>• Small or loose foreign materials (e.g., soil, paint, splinters, glass, fibers)</li> </ul>	<ul style="list-style-type: none"> <li>• Bindles placed into envelopes</li> <li>• Tapelifts in clear plastic containers</li> </ul>
<ul style="list-style-type: none"> <li>• Matted hair bearing crusted material</li> </ul>	<ul style="list-style-type: none"> <li>• Bindles placed into envelopes</li> </ul>
<ul style="list-style-type: none"> <li>• Fingernail scrapings or cuttings</li> </ul>	<ul style="list-style-type: none"> <li>• Paper bindles placed into envelopes</li> <li>• Sealable boxes</li> </ul>
<ul style="list-style-type: none"> <li>• Reference blood samples, liquid</li> </ul>	<ul style="list-style-type: none"> <li>• Lavender and/or yellow stoppered evacuated blood collection vials (according to local policy) placed in envelopes</li> </ul>
<ul style="list-style-type: none"> <li>• Saliva reference sample (dried)</li> </ul>	<ul style="list-style-type: none"> <li>• Envelopes</li> </ul>
<ul style="list-style-type: none"> <li>• Clothing</li> </ul>	<ul style="list-style-type: none"> <li>• Paper bags (not plastic)</li> </ul>
<ul style="list-style-type: none"> <li>• Toxicology samples Blood alcohol/toxicology Urine toxicology</li> </ul>	<ul style="list-style-type: none"> <li>• Gray stoppered evacuated blood collection vials</li> <li>• Tightly sealed clean plastic or glass container for urine samples</li> </ul>

### 3. Label evidence containers

Clearly label evidence to enable the person collecting it to later identify it in court and to ensure that the chain of custody is maintained. Many emergency departments use addressograph machines or computerized label generators to expedite labeling of evidence. Label envelopes or boxes with the following information:

- Full name of patient;
- Date of collection;
- Description of the evidence including the location from which it was collected; and
- Signature or initials of the person who collected the evidence and placed it in the container.

### 4. Seal evidence containers

Properly seal evidence containers to ensure that contents cannot escape and that nothing can be added or altered by:

- Securely taping the container (do not lick the adhesive seal); and
- Initialing and dating the seal by writing over the tape onto the evidence container. Stapling is not considered a secure seal.
- See **Appendix G**: Sealed Evidence Envelope for an example of proper sealing.

### 5. Store evidence in a secure area

Evidence must be kept in a secure area when not directly in the possession of a person listed in the chain of custody.

### 6. Maintain the chain of custody

The chain of custody documents the handling, transfer, and storage of evidence beginning with the collection of the evidence at the medical facility. It continues with each transfer of the evidence to law enforcement, the crime laboratory, and others. Complete documentation of the chain of custody information ensures there has been no loss or alteration of evidence prior to trial.

- **Document all transfers of evidence with the following information:**
  - Name of person transferring custody;
  - Name of person receiving custody;
  - Date of transfer; and
  - Some jurisdictions also require documentation of time of evidence transfer. Consult your local crime laboratory for their requirements.



- **Chain of custody information can be:**
  - Printed by hand on an evidence envelope or box;
  - Securely attached to an evidence envelope or box; or
  - Preprinted on special envelopes, boxes and/or forms.
  - See **Appendix H** for a sample of the Chain of Custody Form.

## C. COLLECTION OF CLOTHING

### 1. Collect clothing worn by the patient upon arrival at the hospital, if indicated.

### 2. Types of evidence on clothing

Clothing worn at the time of the assault may contain useful evidence:

- Rips, tears or other damage sustained as a result of the assault;
- Blood and other body fluids from the patient; and
- Foreign materials such as fibers, grass, soil, and other debris.

### 3. Collection procedures

- **Have patients remove their shoes first, then disrobe on two sheets of paper placed on top of one another on the floor.**

The purpose of the bottom sheet is to protect the top sheet from dirt and debris on the floor. The purpose of the top sheet is to collect loose trace evidence which may fall from the clothing during disrobing. Using the disposable paper from examination tables is acceptable for this purpose.

- **Shoes**

The shoes may be collected and packaged separately, if requested by the investigating agency or if indicated by the assault history.

- **Hairs, fibers, and debris**

Collect loose hairs, fibers, and debris that fall from the clothing on the top sheet of paper placed on the floor for this purpose. After the clothing has been collected, fold the top sheet of paper (from the two sheets on the floor) into a large bundle to ensure that all foreign materials are contained inside. Label and seal to ensure that the contents cannot escape. Place into a large paper bag. The bottom sheet should be discarded.

- **Folding garments**

Fold each garment as it is removed to prevent body fluid stains or foreign materials from being lost or transferred from one garment to another. Avoid folding the clothing across possible body fluid stains.

- **Wet clothing**

It is preferable to dry clothing before packaging. If drying is not possible, wet clothing can be folded sandwiched between sheets of paper. After placing the item in a paper bag, clearly label the bag as containing a wet item and notify the law enforcement officer. Consult your local crime laboratory for additional recommendations.

- **Containers for clothing**

Package each item of clothing in an individual paper bag. **Do not use plastic bags.** Plastic retains moisture which can result in mold and deterioration of biological evidence.

**4. Securely seal and label each clothing bag with the following information:**

- Full name of patient;
- Date of collection;
- Brief description of item; and
- Signature or initials of the person who collected the evidence and placed it in the container.

**5. Place small bags of clothing and the large paper bindle (from the floor) into large bag(s)**

Place all bags (except those containing wet evidence) and the bindle made from the top sheet of paper into a large paper bag which has a chain of custody form printed on it or firmly attached. Multiple large bags may be used, if necessary.

**D. PROCEDURES FOR BITE MARKS**

**1. Photographing bite marks**

Individuals can be identified by the size and shape of their bite marks. Properly taken photographs of bite marks and bruises can assist in the identification of the person who inflicted the injury. See Chapter X on Photography.

**2. Collecting saliva from bite marks after photo documentation**

This sample can be examined by the crime laboratory for the presence of saliva and can be genetically typed and compared to potential suspects. Follow these procedures:

- Swab the general area of trauma with a swab moistened with distilled, deionized or sterile water.
- **Note:** If the patient history indicates a bite and there are no visible findings, swab the indicated area.

- Collect a control swab from an unbiten atraumatic area adjacent to the suspected saliva stain.
- Label, air dry, and package the evidence and control swabs separately.

### **3. Casting bite marks**

- If the bite has perforated, broken, or left indentations in the skin, a cast of the mark may be indicated. The impressions left in the skin from a bite mark fade very quickly. If casting is indicated, it must be performed expeditiously.
- A forensic dentist should be consulted in these cases. The procedure for consulting such experts varies among jurisdictions. Consult with the law enforcement agency having jurisdiction over the case.
- Bite marks may not be obvious immediately following an assault, but may become more apparent with time. A recommendation should be made to the law enforcement agency to arrange for follow-up inspection within one to two days and to have additional photographs taken.

## **E. BRUISING AND AGING OF INJURIES**

Bruises evolve and change color in an unpredictable sequence. Determination of the age of bruising can only be done in the broadest of time frames. Use caution in the identification of bruises of different ages.

- Photograph bruises to document injuries and to assist in the identification of the object that inflicted the injury.
- Deep tissue injuries may not be seen or felt initially.
- Arrange or recommend to the law enforcement agency to have follow-up photographs taken in one to two days after the bruising develops more fully.

## **F. TOXICOLOGY**

In addition to clinical implications, the presence of drugs in the patient's blood or urine may have legal significance.

### **1. Collect toxicology samples if the patient:**

- Is unconscious;
- Exhibits abnormal vital signs;
- Reports ingestion of drugs or alcohol;
- Exhibits signs of memory loss, dizziness, confusion, drowsiness, impaired judgment;
- Shows signs of impaired motor skills;
- Describes loss of consciousness, memory impairment or memory loss;
- Reports nausea; and/or
- Exhibits other unexplained neurologic findings such as seizures.

**2. Use these containers for toxicology samples:**

Blood samples	Gray stoppered evacuated blood collection vials
Urine Samples	Tightly sealed clean plastic or glass container
<b>Note:</b> Refrigeration of toxicology samples is recommended.	

**3. Collect toxicology samples as soon as possible**

Alcohol metabolizes rapidly. Many drugs are also quickly eliminated from the body.

<b>For alcohol analysis, collect a blood sample (5cc).</b>
<ul style="list-style-type: none"><li>• Some drugs may also be detected in this sample if it is collected within 24 hours of ingestion. If this is a consideration, collect additional blood for drug analysis.</li><li>• Be sure to cleanse the arm with a non-alcoholic solution.</li></ul>

<b>If ingestion of drugs is suspected within 96 hours of the examination, collect the first available urine specimen.</b>
<ul style="list-style-type: none"><li>• If the patient must urinate prior to the medical examination, the urine specimen for toxicology should be collected at that time.</li><li>• "Clean catch" or "mid-stream" sampling methods are unsuitable for urine toxicology specimens.</li><li>• Consult your local crime laboratory for recommended collection methods.</li></ul>

## CHAPTER X

### PHOTOGRAPHY

#### A. POLICIES AND CONSIDERATIONS

Photographs are recommended to supplement documentation of history and physical findings. They may be the only way to adequately document findings such as bite marks, bruises, or massive injuries.

- Photograph every potentially significant injury or finding.
- Photographs may be taken by trained medical forensic examination team members or be arranged with the local law enforcement agency.
- Patients may be concerned about privacy and modesty during photography. Sensitivity to these concerns should be exercised when deciding whether hospital personnel, a male or female law enforcement officer, or crime scene investigator takes the photographs.

#### B. PHOTOGRAPHIC PROCEDURES

Any good quality camera may be used as long as it can be focused for undistorted, close-up photographs and provides an accurate color rendition.

- Use a 35mm camera with a macro lens and appropriate flash attachment to adequately record small or subtle injuries.
- Digital imaging is gaining acceptance in some jurisdictions as long as certain safeguards are in place. Consult with the local District Attorney's Office.
- Use adequate lighting whether the source is natural, flood, or flash.
- Take close-up photographs of bite marks and other wounds with the film plane as parallel to the subject area as possible. Minimize tilting of the camera to avoid distortion of the pictures.
- Include an accurate ruler or scale for size reference in the photograph. The scale should be in close proximity to and in the same plane as the injury or item being photographed. (A right-angle ruler, available commercially from police supply companies, is recommended. Consult your crime laboratory for vendors).
- Include a color bar in the photograph in the first image of the roll or series to ensure accurate color reproduction.

- Link the patient's identity and the examination date to the photographs of injuries and/or findings. This can be accomplished by:
  - Including a picture of the patient's identification card on the roll; or
  - Using a camera databack that can be programmed with the patient's medical record number or another non-duplicative numbering system.
- Avoid obscuring the injury with the ruler, identification label, or color bar. At least one or two photographs should be taken without the scale and/or color bar to orient the injury and to demonstrate that important evidence was not covered up.
- Additional photographs taken with a tangential light source (flash) may be used to enhance textured or irregular surface findings (e.g., bite marks, focal swelling, etc.).

### **C. GENERAL FORENSIC PHOTOGRAPHIC TECHNIQUES**

At least three photographs of findings are required. These principles may be modified or adapted if multiple findings are in the same area.

- First, a "regional" or "orientation" photograph(s) showing the body part and the finding. (This shows the finding in the total context of the body region involved, as well as the anatomical orientation of the finding);
- Second, a close-up shot showing the whole finding; and
- Third, a second close-up using the scale to document size and camera position relative to the finding.

### **D. FORENSIC PHOTOGRAPHY COURSES**

The California Medical Training Center (CMTC) offers courses on forensic photography. See **Appendix B** for information on how to access CMTC courses.

## CHAPTER XIII

### CHILD DEATH REVIEW TEAMS

#### A. PURPOSES OF CHILD DEATH REVIEW TEAMS

Child Death Review Teams (CDRTs) are multi-agency, multi-disciplinary state and/or local teams that systematically review child deaths within a specific geographic area. They play a critical role in helping to identify child abuse and neglect fatalities and other preventable child deaths. Local CDRTs are often involved in the case management of child death investigations. State teams primarily serve the local teams or gather data for systems management and policy interventions. Many benefits have accrued from the work of CDRTs, including more accurate identification of child deaths due to child maltreatment, more effective determination of the underlying cause of suspicious deaths, identification of gaps and breakdowns in agencies and systems designed to protect children, and implementation of various prevention interventions.

##### 1. **Penal Code Section 11166.7 establishes County Child Death Review Teams**

Each county may establish an interagency child death team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Interagency child death teams have been used successfully to ensure that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired.

Each county may develop a protocol that may be used as a guideline by persons performing autopsies on children to assist coroners and other persons who perform autopsies in the identification of child abuse or neglect, in the determination of whether child abuse or neglect contributed to death, or whether child abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse or neglect, including the designation of the cause and mode of death.

In developing an interagency child death team and an autopsy protocol, each county, working in consultation with local members of the California State Coroner's Association and county child abuse prevention coordinating councils, may solicit suggestions and final comments from persons, including but not limited to, the following:

- Experts in the field of forensic pathology;
- Pediatricians with expertise in child abuse;
- Coroners and medical examiners;

- Criminologists;
- District Attorneys;
- Child Protective Services staff;
- Law enforcement personnel;
- Representatives of local agencies involved with child abuse or neglect reporting;
- County health department staff who deal with children's health issues; and
- Local associations of professionals listed above.

## **2. Roles and responsibilities of Child Death Review Teams**

Child Death Review Teams may perform any or all of the following tasks:

- Review and assess whether child deaths are homicides associated with abuse or neglect;
- Review and assess the causes of all child deaths with the intent of identifying circumstances surrounding preventable deaths;
- Improve the criminal investigation and prosecution of child abuse homicides;
- Improve dependency investigations and the protection of surviving siblings;
- Serve as a quality assurance team for death investigations;
- Design and implement cooperative protocols for investigation of child deaths;
- Improve linkages, communication and coordination among law enforcement, social services, local health agencies, the District Attorney's Office, the coroner and others;
- Provide a forum for agencies to resolve conflicts;
- Collect uniform and accurate statistics on child deaths; and,
- Identify public health issues and make recommendations to county and state policymakers and legislators.

## **3. Team Membership**

Core members:

- County Medical Examiner or Coroner;
- Law Enforcement Agencies;
- Child Protective Services;
- District Attorney's Office; and
- Pediatrician (preferably with experience in child abuse evaluations).

Additional members:

- Child advocate;
- School representative;
- Fire Department or Emergency Medical Services;
- Mental Health representative;



- Liaison with the California Highway Patrol (CHP) (if available);
- Epidemiologist or data analyst (e.g., Office of Vital Statistics);
- Probation Officer; and
- Injury Control Specialist.

#### 4. Selection criteria

CDRTs systematically select child deaths for review using predetermined criteria. Usually cases are drawn either from the deaths reported to the coroner or from vital statistics death certificates. Many counties (e.g., small and mid-sized counties) review all child deaths, whereas larger counties may have more selective review criteria (e.g., only coroner cases). Age criteria usually range from selecting only children under 7 to selecting all children under 20. The most common age criterion is children under 18 years of age.

Examples of review criteria used by various teams:

- All children under age 18;
- Coroner's cases of all children's deaths;
- "Unexpected", "unexplained", or "suspicious" deaths;
- Deaths under a certain age;
- Deaths of children known to Child Protective Services; and
- Deaths from certain causes.

Recommended minimum criteria:

- All coroner child death cases; and
- All children under 18 years of age.

#### 5. Recommended "best practice" procedures

- Systematic intake and review of cases drawn by protocol from the coroner and/or vital statistics records;
- Teams function as a peer review, respecting confidentiality and sharing information across agency lines;
- Authentic peer review with no agency controlling or censoring the information, discussion, or activity of another;
- Multi-disciplinary team membership of investigative agencies with administrative support to collect, analyze, publish, and distribute the data locally for the Board of Supervisors, directors of public agencies, and in newspaper(s) for the public; and
- Capability for promoting and implementing basic or advanced procedures, policies, and prevention programs through team member agencies (e.g., County Health Department or Child Abuse Prevention Council) or other community resources.

## B. ROLE OF THE STATE CHILD DEATH REVIEW COUNCIL

The California State Child Death Review Council (CSCDRC), established under the auspices of the Department of Justice (DOJ), was organized to establish leadership at the state level with representatives from key state agencies and associations. This statewide council was established pursuant to Penal Code Section 11166.9. According to the legislative mandate, it shall be the duty of the CSCDRC to oversee the statewide coordination and integration of state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child death. Goals of the State Council include:

- Create and maintain an integrated, automated statewide data system for all counties and relevant state agencies;
- Promote the use of standardized forms and data collection protocols;
- Foster communication between state and local teams, other states, federal agencies and national associations, including dissemination of data and a statewide directory;
- Address local, state, and federal policy legislation issues and guidelines;
- Seek additional resources and funding for county team efforts;
- Support the development of domestic violence death review teams;
- Promote increased awareness of the relationship between domestic violence and child abuse;
- Promote development of a model for small counties (e.g., multi-county teams or cluster groups for counties with populations under 20,000);
- Raise visibility of child deaths and child death review teams through public education programs and the annual state report;
- Promote education and training for child death review team members;
- Develop an evaluation process to assess team effectiveness;
- Encourage continued research efforts at the state and federal level regarding child deaths and related issues; and
- Provide training and technical assistance to local teams.

This chapter is a condensed version of the articles entitled "Child Death Review Teams" by Michael Durfee, M.D. and Stephen J. Wirtz, Ph.D. from the book Child Abuse and Neglect: Guidelines for Identification, Assessment, and Case Management, published by Volcano Press, 2003 ([www.volcanopress.com](http://www.volcanopress.com)).

This publication contains extensive chapters on the identification, assessment and case management of various forms of child abuse and neglect written by over 95 experts in the field. This project was partially funded by the Governor's Office of Criminal Justice Planning (now the Governor's Office of Emergency Services), State Maternal and Child Health, and Volcano Press, Inc. as a public/private partnership.

## CHAPTER XIV

### MENTAL HEALTH AND DEVELOPMENT ISSUES AND REFERRALS

#### A. PSYCHOLOGICAL AND BEHAVIORAL OUTCOMES ASSOCIATED WITH CHILD PHYSICAL ABUSE

##### 1. Psychological and Social Problems Associated with Physically Abused Children

- Post-traumatic Stress Disorder (PTSD);
- Generalized anxiety;
- Depression;
- Withdrawal;
- Feeling different from others and socially isolated;
- Poor interpersonal social skills; and
- Poor school performance and/or underachieving

##### 2. Behavioral problems associated with physically abused children

- Difficult or aggressive behavior;
- Oppositional and/or defiant behavior;
- School problems; and
- Bullying and fighting behavior

##### 3. Recommended mental health treatment modalities

- Individual therapy;
- Group therapy;
- Parent-Child Interaction Therapy (PCIT); and
- Home visiting programs

#### B. PSYCHOLOGICAL AND BEHAVIORAL OUTCOMES ASSOCIATED WITH CHILD NEGLECT

##### 1. Psychological, developmental, and behavioral outcomes associated with child neglect

- Poor impulse control and creativity;
- Poor academic performance;
- Poor interpersonal social skills;
- Poor language comprehension;
- Speech delays;
- Lower IQ scores;
- Not "ready to learn" in school;
- Withdrawn and reticent to participate in activities;
- Depression;

- Anxiety; and
- Vulnerability for developing alcohol and drug abuse problems and for developing significant mental health problems

## **2. Recommended treatment modalities**

- Home visiting programs;
- Individual therapy; and
- Group therapy

## **C. MENTAL HEALTH TREATMENT**

### **1. Indicators for mental health treatment for abused and neglected children**

- History of neglect, physical and sexual abuse;
- Death of a sibling or a parent;
- Child or parent history of alcohol and/or drug abuse;
- Depression, sadness, withdrawal and avoidance of others, fearful;
- Angry, agitated;
- Signs of stress (e.g., unable to go to sleep, wakes during the night, eating problems, quick temper, easily frustrated);
- Acting out behavior (e.g., aggressive with peers, caregivers, teachers);
- History of torture;
- Mistreatment of animals;
- Firesetting;
- School problems (e.g., poor grades, poor concentration, little participation in activities);
- Change or deterioration of behavior;
- Suicidal ideation;
- Risk of placement disruption due to behavioral difficulties;
- Difficulties with self-care not due to developmental disability;
- Hallucinations or delusions; and
- History of receiving psychotropic medication.

## 2. Purpose and types of mental health treatment

The purpose of mental health treatment is to alleviate psychological and behavior symptoms and to facilitate the development and maintenance of healthy functioning across an individual's life domains (e.g. home, work, or school). The primary treatment modalities are:

- Individual therapy (e.g., various psychodynamic therapeutic models, sand tray, cognitive-behavioral therapy, and play therapy);
- Dyadic therapy (e.g., Parent-Child Interaction Therapy);
- Group therapy; and
- Family therapy.

Home-based and family-centered service approaches may also be helpful in supporting children and families. Home visiting programs, family resource centers, family conferencing, and wraparound social service support models are being developed in many communities to enhance existing systems of care.

## 3. Indicators for a psychological evaluation

Sometimes the clinical or psychosocial assessment indicates a need for a psychological evaluation to obtain more detailed information regarding the child's psychological functioning or when the diagnosis is unclear. For a treatment plan to be successful, it is important to know, for example, whether the child is suffering from Post Traumatic Stress Disorder (PTSD) or has Attention Deficit Hyperactivity Disorder (ADHD) because the symptoms can be similar but the treatment plans are different.

Psychologists are the only mental health professionals accredited to perform psychological testing and evaluation, and they employ a battery of tests that evaluate:

- **Cognitive functioning**  
Processing information, learning strengths and weaknesses, memory, verbal and nonverbal abilities, and academic abilities.
- **Affective functioning**  
Emotions, fantasies, and feelings.
- **Adaptive functioning**  
How an individual functions in the world in areas such as communication, daily living skills and socialization.

- **Pathological functioning**  
Ways in which the individual's internal conflicts and drives distort or overwhelm the ability to deal effectively with the demands of external reality.
- **Personality**  
Clinical symptoms, personality traits and patterns, and interpersonal functioning.
- **Developmental functioning**  
Cognitive, communication, social, adaptive, and/or motor development.

#### 4. **Psychological testing**

Psychological testing can address these questions about an individual:

- What are the client's intellectual strengths and limitations?
- Is there evidence of neurological immaturity or impairment?
- What is the nature of past knowledge and achievements, interests, and aptitudes?
- How adequate is reality testing?
- What is the quality of interpersonal relationships?
- What are the adaptive strengths (application of assets and liabilities to new problems, flexibility of approach, persistence, frustration tolerance, and reaction to novelty)?
- To what degree are impulses maintained under control (under-controlled or over-controlled)?
- How does the person defend psychologically (protect the self from feelings, ideas, and experiences that create anxiety through avoidance, repression, fighting or aggression, etc.) against unacceptable internal needs and demands or external experiences? How rigid are the client's defenses?
- What are the areas of conflict?
- Does the child have a psychiatric disorder?
- What is the child's developmental functioning?
- What treatment strategies and services would be most effective in improving functioning?
- What support services would be helpful to the parents or caregivers?

## 5. Indicators for a psychiatric evaluation

Psychiatric evaluations are sometimes needed to evaluate complex issues that may need to be resolved with hospitalization or medication support for relief of symptoms. Psychiatric evaluations are helpful with parents and children in cases involving:

- Previous psychiatric history;
- Psychotic symptoms such as hallucinations (e.g. , hearing voices), delusional thinking (odd or magical beliefs) or bizarre ideation;
- Suicidal ideation or attempts or self-destructive behaviors;
- Significant anxiety (fears/worrying) and depression (sadness/withdrawal/anger/passivity);
- Episodes of dissociation, (i.e. “spacing out”);
- Inattention, forgetfulness, distractibility, or difficulty concentrating;
- Aggressive outbursts (whether toward others or animals) or firesetting;
- Hyperactivity or excessive energy;
- Changes in sleeping or eating patterns;
- Pain or any medical symptom that does not have medical basis;
- Regressed behaviors (e.g., bedwetting in a previously “dry” child);
- Inappropriate sexualized behaviors; and/or,
- Obsessive thoughts or compulsive behaviors.

## D. CHILD DEVELOPMENT EVALUATIONS

### 1. Indicators for making a referral for a developmental evaluation

Early diagnosis gives the child with developmental disorders an important head start in school or identifies reasons behind school problems. It is especially critical that a treatment plan be determined and implemented before or during the child's early school years. Guidelines for referral for a developmental evaluation include:

- Delays in reaching early developmental milestones (such as sitting, crawling, babbling or using words, and learning new social or play skills);
- Language delay, cognitive delay, fine and gross motor skill delay;
- Hyperactivity or behavior problems;
- Regression (loss) of skills;

- School or learning problems;
- Atypical behaviors (e.g., inability to interact or play with other children, inattention, daily living skill and self-care deficits);
- History of prenatal drug exposure, low birth weight or prematurity;
- Inability to understand or follow directions, or inability to explain ideas or speak clearly; and/or
- Children with histories of child abuse and neglect.

## 2. Formal Developmental Evaluation

A formal child developmental evaluation requires a multi-disciplinary team which includes a clinical psychologist with specialized training in child development and developmental disorders, a Developmental-Behavioral Pediatrician, and a social worker with training in child development. Assessment requires knowledge of typical and atypical development, cultural and social aspects of behavior, psychometric concepts, multiple diagnostic measures and techniques, ethnical/legal issues and an understanding of the child welfare and other intervention service systems.

This chapter is a condensed version of the article entitled "Developmental Issues in Abused and Neglected Children" by Theresa Witt, Ph.D. and Robin Lee Hansan, M.D. from the book Child Abuse and Neglect: Guidelines for Identification, Assessment, and Case Management, published by Volcano Press, 2003 ([www.volcanopress.com](http://www.volcanopress.com)).

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**COMMISSION ON STATE MANDATES**

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November 12, 2009

Leonard Kaye, Esq.  
County of Los Angeles,  
Auditor-Controller's Office  
500 West Temple Street, Room 525  
Los Angeles, CA 90012-2766

*And Affected State Agencies and Interested Parties (See Enclosed Mailing List)*

**RE: Outcome of Prehearing and Tentative Hearing and Comment Schedules  
Proposed Parameters and Guidelines and Reasonable Reimbursement Methodology  
Interagency Child Abuse and Neglect (ICAN) Investigation Reports, 00-TC-22  
Penal Code Sections 11165.1, 11165.2, 11165.3, 11165.4, 11165.5, 11165.6, 11165.7,  
11165.9, 11165.12, 11166, 11166.2, 11166.9, 11168 (Including Former Penal Code  
Section 11161.7), 11169, and 11170;  
Statutes 1977, Chapter 958; Statutes 1980, Chapter 1071; and Subsequent Statutes  
Through Statutes 2000, Chapters 287 and 916;  
California Code of Regulations, Title 11, Sections 901, 902, and 903;  
Department of Justice Forms SS 8572 and SS 8583  
County of Los Angeles, Claimant**

Dear Mr. Kaye:

The Commission on State Mandates conducted a third prehearing on October 29, 2009, on the parameters and guidelines for the above-named matter.

At the prehearing it was determined that the proposed reimbursable activities that are being circulated in surveys used to develop a reasonable reimbursement methodology are not currently included in the proposed parameters and guidelines. Claimant, County of Los Angeles committed to submitting proposed revised parameters and guidelines that include these reimbursable activities. Once the revised parameters and guidelines are submitted, Commission staff will circulate them for comment. These comments will assist Commission staff in recommending what activities are reimbursable, which will assist the claimant and parties in developing the proposed reasonable reimbursement methodology.

Claimant also committed to continue working on the reasonable reimbursement methodology during the comment process so that adoption of the parameters and guidelines will not be further delayed.

Please contact me at (916) 323-8217 if you have questions.

Sincerely,

NANCY PATTON  
Assistant Executive Director





**JOHN CHIANG**  
**California State Controller**  
Division of Accounting and Reporting

April 1, 2010

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**RE: Revised Proposed Parameters and Guidelines**  
*Interagency Child Abuse and Neglect (ICAN) Investigation Reports, 00-TC-22*  
Penal Code Sections 11165.1, 11165.2, 11165.3, 11165.4, 11165.5, 11165.6, 11165.7,  
11165.9, 11165.12, 11166, 11166.2, 11166.9, 11168 (Including Former Penal Code  
Section 11161.7), 11169, and 11170;  
Statutes 1977, Chapter 958; Statutes 1980, Chapter 1071; and Subsequent Statutes  
Through Statutes 2000, Chapters 287 and 916;  
California Code of Regulations, Title 11, Sections 901, 902, and 903;  
Department of Justice Forms SS8572 and SS8583  
County of Los Angeles, Claimant

Dear Ms. Higashi:

We have reviewed the revised proposed parameters and guidelines for the above named program as communicated by the Commission on February 10, 2010. Comments and recommendations follow; proposed additions are underlined and deletions are indicated with strikethrough:

**I. SUMMARY OF THE MANDATE**

**Page 21** On December 19, 2007 the Commission on State Mandates (Commission) ~~issued~~  
adopted a Statement of Decision [00-TC-22]

**III. PERIOD OF REIMBURSEMENT**

**Page 22** Actual costs for one fiscal year shall be included in each claim. ~~Estimated costs of~~  
~~the subsequent year may be included on the same claim, if applicable...~~

**COMMENT:** Chapter 6, Statutes of 2008 (effective February 16, 2008), eliminated

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the option of filing an estimated reimbursement claim.

#### IV. REIMBURSABLE ACTIVITIES –

**Page 22** To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed except where ~~standard cost-claiming~~ reasonable reimbursement methodology rates are adopted ~~is permitted~~ as set forth in Section IV B

**COMMENT:** The term “reasonable reimbursement methodology” means a formula for reimbursing local agency and school districts mandated by the state. (GC 17518.5)

**Page 23** ~~IV B. Standard-Costs~~ Reasonable Reimbursement Methodology

~~Specified~~ Reimbursable labor costs may be recovered for performing law enforcement and county welfare agency activities by using ~~standard-times~~ reasonable reimbursement methodology set ~~fourth~~ forth below. These times would then be multiplied by the claimant’s ~~blended~~ 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.

#### GENERAL COMMENTS:

The activities specified in Section IV B do not clearly identify the mandated activities in the Statement of Decision adopted by the Commission on December 19, 2007.

- SCO requests these activities with standard times be correlated to the reimbursable activities specified on the Statement of Decision
- The activities need to be segregated between One-time and On-going Activities
- Each activity may contain supervisory review and approval which should not be duplicated in the indirect cost rate
- All reimbursable and non-reimbursable activities should be clearly identified
- SCO is reserving the right to comment on the recommended Reasonable Reimbursement Methodology times established prior to approval

**Page 24** **IV.C. Reimbursable Activities**  
 Claimants must use ~~a combination of actual cost and or standard cost methodologies~~ reasonable reimbursement methodology rates adopted by the Commission, but ~~should take care to ensure that the same reimbursable activity is not claimed under both methods.~~

**COMMENT:** We recommend that only RRM rate be used if adopted by the Commission.

**Page 25** One-time Activities:

- A. ~~Annually, update~~ Develop and establish Departmental policies and procedures necessary to comply with ICAN's requirements.

Ongoing Activities:

- B. ~~Periodically, Participation~~ in meetings with State and local agencies in coordinating ICAN cross-reporting and collaborative efforts.

One-time Activities:

- C. ~~Annually, Develop and~~ train ICAN staff in State Department of Justices' [DOJ] ICAN requirements. Reimbursable specialized ICAN training costs include those incurred to compensate ~~participants and~~ instructors for their time in participating in ~~an annual~~ training session and to provide necessary facilities, training materials and audio visual presentations. (One time per employee)
- D. ~~Periodically, to Develop, update or obtain~~ or procure computer software and ~~obtain~~ equipment necessary for ICAN cross-reporting and reporting to DOJ. Prorate only the costs related to the mandate.

Ongoing Activities:

- E. ~~Testing and evaluation costs that are incurred when reasonably necessary to make an evidentiary findings. Reimbursement is provided for the costs of tests and evaluations on suspects as well as victims. Victim costs include those incurred for medical exams for sexual assault and/or physical abuse, mental health exams, and, where the victim dies, for autopsies. 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. Suspect costs include those incurred for DNA and polygraph testing. Also included, when reasonably necessary to make an evidentiary finding, are the costs of video taping interviews of victims and suspects.~~

One-time Activities:

- A. ~~Due process costs incurred by law enforcement and county welfare agencies to~~ Develop and ~~maintain~~ establish ICAN due process procedures reasonably necessary to comply with deferral due process procedural protections under the 14<sup>th</sup> Amendment which need to be afforded suspects reported to the DOJ's Child Abuse Central Index [CACI].

**COMMENT:** We recommend that reimbursable activities be delineated between One-time and Ongoing Activities.

**Page 26**    *Reporting Between Local Departments****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:

- l. 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 ~~1116.5~~-11165.6 except acts or omissions coming within subdivision 9(b) of section 11165.2,... (Penal Code section 11166 subdivision (h), now subdivision (j)).

**Page 27**    A county welfare department shall:

- l. 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 ~~1116.5~~-11165.6 except acts or omissions coming within subdivision 9(b) of section 11165.2,... (Penal Code section 11166 subdivision (h), now subdivision (j)).
7. Send a written report thereof within 36 hours of receiving the information concerning the incident to ~~any~~any agency...

**Page 28**    ***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:***

7. Report by telephone, fax or electronic transmission immediately, or as soon as practically possible Penal Code section ~~1116.5~~-11165.6 except acts or omissions coming within subdivision 9(b) of section 11165.2,... (Penal Code section 11166 subdivision (h), now subdivision (j)).
- l. Send a written report thereof within 36 hours of receiving the information concerning the incident to ~~any~~any agency...

**Page 28**    ***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~~ reported to law enforcement

**Page 29** *Additional Cross-Reporting in Cases of Child Death:*

*A city or county law enforcement agency shall:*

- ~~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).)~~

**COMMENT:** According to the Statement of Decision adopted on December 19, 2007, this activity is to be performed by the County Welfare Department.

*A county welfare department shall:*

- Cross-report all cases of child death suspected to be related to child abuse or neglect to law enforcement. (Penal Code section 11166.9, subdivision (k), now section 11174.34, subdivision (k).)
- 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. (Penal Code Section 11166.9, subdivision (l), now section 11174.34, subdivision. (l).)

- Page 30**
- Enter information into the CWS upon notification that the death was subsequently determined not to ~~be~~ related to child abuse...

**Page 30** *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... filed with the Department of Justice. (Penal Code Section ~~11166.9~~ 11169 subdivision (b)).

- Page 31**
- Notify, in writing, the person listed in the Child Abuse Central Index... The notification shall include the name of the reporting agency and the date of the report. (Penal Code, Section 11170, subdivision (b) (5), now subdivision (b) (7).)

**Page 31** *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... (Penal Code Section 11170, subdivision (b) (6) (A), now ~~(b)(8)(10) (A)~~).

*Any city or county law enforcement agency, county probation department, or county welfare shall: ~~(j)->~~*

**Page 32** *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 investigation reports...for a minimum of 8 years for counties and cities (a higher level of service above the two-year record retention requirement pursuant to GC sections 26202 (cities) and 34090 (counties).)

Please contact Ellen Solis at (916) 323-0698, or Ginny Brummels at (916) 324-0256, if you have any questions.

Sincerely,



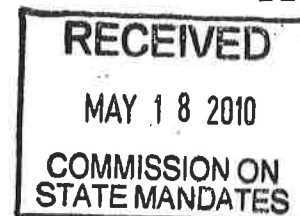
JILL KANEMASU, Chief  
Bureau of Payments

JK/GB/ecs



COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER

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ROBERT A. DAVIS  
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JUDI E. THOMAS

DECLARATION OF SERVICE

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

- 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.
- 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 18<sup>th</sup> day of May, 2010, at Los Angeles, California.

Lorraine Hadden



Commission on State Mandates

Original List Date:	7/6/2001	Mailing Information:	Draft Staff Analysis
Last Updated:	3/22/2010		
List Print Date:	05/13/2010		<b>Mailing List</b>
Claim Number:	00-TC-22		
Issue:	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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Ms. Juliana F. Gmur MAXIMUS 2380 Houston Ave Clovis, CA 93611	Tel: (916)485-8102 Fax: (916)485-0111



**COUNTY OF LOS ANGELES  
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MARIA M. OMS  
CHIEF DEPUTY

May 17, 2010

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JOHN NAIMO  
JUDI E. THOMAS

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

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](mailto: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

**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 @ W. H. J. W. R. CA  
Date and Place

  
Signature



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

Exhibit 4

KENNETH HAHN HALL OF ADMINISTRATION  
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MARIA M. OMS  
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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 [ICAN] 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

Date of Hearing: May 3, 2011

Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Tom Ammiano, Chair

AB 717 (Ammiano) – As Amended: April 25, 2011

SUMMARY: Amends existing provisions of law relating to the Child Abuse Central Index (CACI). Specifically, this bill:

- 1) Changes CACI to include reports only of substantiated cases.
- 2) Removes inconclusive and unfounded reports from CACI.
- 3) Provides that any person listed in CACI who has reached age 100 is to be removed from CACI.
- 4) Provides that on or after January 1, 2012, law enforcement need no longer report to the Department of Justice (DOJ) cases law enforcement investigates of known or suspected child abuse or severe neglect.
- 5) Allows any person listed on the CACI before January 1, 1998 who did not receive notice of inclusion to request a hearing from the reporting agency within three years of learning of his or her CACI listing.
- 6) Allows any person listed on the CACI on or after January 1, 1998, but before March 1, 2008, to request a hearing to request a hearing from the reporting agency.
- 7) Requires a reporting agency to notify the DOJ when a due process hearing results in a finding that a CACI listing was based on an unsubstantiated report.
- 8) Requires the DOJ to remove a person's name from the CACI when it is notified that the due process hearing resulted in a finding that the listing was based on an unsubstantiated report.

EXISTING LAW:

- 1) Requires that any specified 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 the reporter knows, or reasonably suspects, has been the victim of child abuse, shall report it immediately to a specified child protection agency. [Penal Code Section 11166(a).]
- 2) Requires specified local agencies to send the California DOJ reports of every case of child abuse or severe neglect that they investigate and determine to be either true or inconclusive, but not those that are found to unfounded. [Penal Code Section 11169(a).]

- 3) Defines the following types of suspected child abuse or neglect reports:
  - a) "Unfounded report" is a report that is determined by the investigator to be false, inherently improbable, an accidental injury, or not to constitute child abuse or neglect, as defined.
  - b) "Substantiated report" is a report that is determined by the investigator based on some credible evidence to constitute child abuse or neglect, as defined.
  - c) "Inconclusive report" is a report that is determined not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine if child abuse or neglect, as defined, has occurred. (Penal Code Section 11165.12.)
- 4) Directs the DOJ to maintain an index, referred to as the CACI, of all reports of child abuse and neglect submitted as specified. [Penal Code Section 11170(a)(1).]
- 5) Allows DOJ to disclosure information contained in the CACI to multiple identified parties for purposes of child abuse investigation, licensing, and employment applications for positions that have interaction with children. [Penal Code Section 11170(b).]
- 6) Requires DOJ to provide written notification to a person listed in the CACI. [Penal Code Section 11169(b).]
- 7) Allows an identified child abuser to obtain the report of suspected abuse and information contained within his or her CACI listing. [Penal Code Section 11167.5(b)(11).]
- 8) 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 10-year period. [Penal Code Section 11170(a)(3).]

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's Statement: According to the author, "AB 717 is a response to several court decisions which collectively state that CACI is unconstitutional because it does not notice all people of their inclusion in CACI, offer a due process hearing, or give people listed in CACI with unsubstantiated cases of abuse or neglect a procedure to have their names removed from the database.

"AB 717 would make CACI constitutional by only including the reports from local agencies of investigations that are substantiated. Agencies that have previously filed substantiated reports that have been found unsubstantiated shall notify DOJ for removal from CACI. Law enforcement agencies would be no longer required to report investigations to CACI.

"Additionally, any person who has not received notice of their CACI listing prior to January 1, 1998, when notice was not legally required, may request a due process hearing as well as any person after January 1, 1998, who received notice, but not a hearing. Any case

that has been found unsubstantiated through a due process hearing shall be removed from CACI.

"Finally, AB 717 would require the DOJ to purge all unsubstantiated listings and all listings when the person has reached 100 years of age."

2) CACI Litigation Background:

- a) **The Child Abuse and Neglect Reporting Act:** In 1963, the Legislature began requiring physicians to report suspected child abuse. [See *Smith v. M.D.* (2003) 105 Cal.App.4th 1169 (discussing evolution of child abuse detection laws).] Two years later, the Legislature expanded the reporting scheme to require that instances of suspected abuse and neglect be referred to a central registry maintained by DOJ. In the early 1980s, the Legislature revised the then-existing laws and enacted the Child Abuse and Neglect Reporting Act (CANRA), which created the current version of the CACI. These revisions did not require that listed individuals be notified of the listing, nor were individuals even able to determine whether they were listed in the CACI.
- b) ***Coe v. City of Los Angeles*:** In 1997, the Legislature revamped CANRA to provide more protections to persons listed in CANRA. As a result, a child protective agency placing a person's name on CACI had to inform a person of that fact. Also, CANRA was changed to require a purge of inconclusive reports on the CACI after 10 years, and to allow a listed person to access his or her information. The legislative changes had the effect of mooted the *Coe* lawsuit. It is possible that a person listed in the CACI before the effective date of the legislative changes, January 1, 1998, might still not know that he or she is on the CACI.
- c) **The *Burt* Litigation:** In *Burt v. County of Orange* (2004) 120 Cal.App.4th 273, the Court of Appeal held that a CACI listing implicates an individual's state constitutional right to familial and informational privacy, thus entitling the person to due process. (*Id.* at pp. 284-285.) Although the CACI does not explicitly grant a hearing for a listed individual to challenge placement on the CACI, the statutory scheme contained an implicit right to a hearing. (*Id.* at p. 285.) The court declined to provide guidance on what procedures that hearing should include. The court merely stated that the county social services agency was required to afford a listed individual a "reasonable" opportunity to be heard. (*Id.* at p. 286.)
- d) **The *Gomez v. Saenz* Settlement:** The lawsuit settlement provided due process rights for individuals listed on the CACI by county social service agencies, but not law enforcement agencies. The settlement required that, beginning March 1, 2008, the agencies provide notice of a CACI listing and of the right to request a grievance hearing. Effective March 1, 2008, counties are to provide two forms to individuals who are referred for listing. In the notice form, the county must include case specific information discovered in the child abuse investigation. The second form is the one to be used to request a grievance hearing. When the form is sent, the hearing procedures as well as the county contact information are attached.
- e) **The *Whyte* Litigation:** This litigation challenged DOJ's policy of prohibiting listed individuals from examining and challenging their CACI listings. A superior court

judgment determined that the DOJ's administration of the CACI violated not only the state constitutional right to privacy, but also the Information Practices Act of 1977. As a result, DOJ redrafted its regulations governing the CACI.

- f) *Humphries v. County of Los Angeles*: In a federal civil action, the Ninth Circuit Court of Appeals held that the stigma of being listed in the CACI and the statutory consequences of being listed constitute a liberty interest of which plaintiffs cannot be denied without due process. [*Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170, 1185.] The CACI violates the due process clause of the Fourteenth Amendment as it does not provide identified individuals a fair opportunity to challenge the allegations. (*Id.* at pp. 1200.) Specifically, the court found the current procedure provided to correct erroneous information submitted to the CACI by law enforcement is inadequate because "California provides no formal mechanism for requesting that an investigator review a report or for appealing an investigator's refusal to revisit a prior report." (*Id.* at p. 1192.) The person seeking review must hope the investigator is responsive. (*Id.* at p. 1193.)
- g) *Los Angeles County v. Humphries*: After the Ninth Circuit found the Humphries should get declaratory relief, attorney fees, and possibly damages, the County of Los Angeles appealed to the United States Supreme Court. (See *Los Angeles County v. Humphries* (2010) 131 S.Ct. 447.) The county argued that the Humphries should not have prevailed because they failed to show that their deprivation was the result of a county policy or custom as required by *Monell v. Department of Social Services* (1978) 436 U.S. 658, in which the Court held that local governments can be directly liable in a civil rights suit under 42 U.S.C. Section 1983 only when their action is the result of official policy or custom. Los Angeles County argued that it was simply following California law, and that it had not adopted an independent policy of its own. (*Id.* at p. 450.) The Court concluded the "policy or custom" requirement also applies when plaintiffs seek prospective relief, such as an injunction or a declaratory judgment. (*Id.* at p. 451.) Nothing in the statute or case law suggests that this causation requirement should change based on the form of relief sought. (*Id.* at p. 453.) The Humphries were not entitled to prospective declaratory relief or to damages.
- 3) Necessity for this Bill: This bill codifies several requirements addressed in court settlements as well as constitutional deficiencies noted in other cases.
- 4) CACI Criticism and Controversy: In a 2004 self-study, a California task force reported on a pilot program in San Diego County, where "DOJ discovered that approximately 50 percent of the CACI listings originating from [one agency] should be purged because the supporting documentation was no longer maintained at the local level." [Child Abuse and Neglect Reporting Act Task Force Report 24 (2004).] The task force found that "[if] this percentage held true for the entire State it is possible that half of the 800,000 records which DOJ presently maintains in the CACI should be purged." (*Ibid.*) Not only does this create a problem for the individuals improperly listed, but the more false information is included in the CACI, the less useful CACI becomes as an effective tool for protecting children from abuse.
- 5) Argument in Support: According to Child and Family Protection Association, "AB 717 appropriately amends Sections 11169 and 11170 of the Penal Code to specify that only 'Substantiated' reports of child abuse or neglect shall be maintained in the Child Abuse

Central Index (CACI).

"Under current law, an investigation of child abuse or neglect results in a report that comes to one of 3 possible conclusions: (1) 'Unfounded'; (2) 'Inconclusive'; or (3) 'Substantiated' (PC 11165.12). Under current law, the Department of Justice is required to maintain in the CACI all 'Inconclusive' and 'Substantiated' reports (PC 11169 & 1170). Upon receiving a request pursuant to PC 11170, the Department of Justice furnishes information about individuals who are listed in the CACI.

"We believe that passage of AB 717 would bring about a very favorable change to current law. AB 717 will help many innocent individuals who, under current law, find themselves trapped in a legal/administrative system where it is extremely difficult to prove their innocence and to get their names removed from the CACI.

"AB 717, as currently written, would protect the reputation and very likely the ability of innocent individuals to apply for or retain specified employment, licensing, or volunteer status. These would be individuals who had been investigated on an allegation of child abuse or neglect where the conclusion of the investigation was 'inconclusive' and NOT determined to be 'substantiated.' "

6) Prior Legislation:

- a) SB 1312 (Peace), of the 2001-02 Legislative Session, would have made numerous changes to CACI including the purging of old reports. The provisions dealing with CACI were deleted before SB 1312 was chaptered.
- b) AB 2442 (Keeley), Chaptered 1064, Statutes of 2002, established the CANRA Task Force for the purpose of reviewing the act and CACI.
- c) AB 1447 (Granlund), of the 1999-2000 Legislative Session, made numerous changes to CACI including the purging of old reports. AB 1477 was never heard by the Senate Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Child and Family Protection Association

Opposition

None

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## The Child Abuse Registry – Part II – Victory in California

2012 October 3

Tags: Child welfare and foster care reform

Posted by ethoma

*There is a fine line between Unfounded and Inconclusive determinations. An Inconclusive determination automatically places an offender's name on the Child Abuse Central Index without conclusive evidence and a legal framework to ensure due process. This may give the appearance of "guilty until proven innocent," contrary to legal tradition.*

*–Solano County Grand Jury*

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### OVERVIEW

California's Child Abuse Central Index, or CACI, as it is commonly called, has been the subject of countless reviews, investigations, Grand Jury reports, and lawsuits. Yet, nothing ever seemed to change. At least not in a manner that would have meaningfully impacted the estimated 800,000 people whose names were listed on the Registry. Maintained by the California Department of Justice, the Registry "is not actively managed by the State. It is not routinely purged of erroneous or unsupported entries." Individual reporting agencies hold the responsibility for updating the database, something that they have historically been reluctant to do.

Among the more recent examinations of California's Child Abuse Registry were those of two Grand Juries. In its report, entitled *Health And Social Services Child Abuse Reporting*, the 2008-2009 Solano County Grand Jury explored these issues, following up on prior reports that it had issued. Thereafter, the 2009-2010 Orange County Grand Jury followed up with a report of its own, ominously entitled *CACI: Child Abuse Central Index: Guilty Until Found Innocent*.



## A VICTORY FOR FAMILIES

On October 14, 2011, Governor Edmund G. Brown Jr. signed into law Assembly Bill 717, introduced by Assemblymember Tom Ammiano (D-San Francisco) amending the Child Abuse Central Index. The newly revised statute went into effect on January, 1, 2012.

The Act was amended to include only “substantiated” claims of abuse or severe neglect. According to the Act, an agency “shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated,” with the clear proviso that an agency “shall *not* forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated,” as defined in the revised Code.

The revised legislation states also that: “If a report has previously been filed which subsequently proves to be not substantiated, the Department of Justice shall be notified in writing of that fact and shall not retain the report.”

Much to their credit, both the Solano and Orange County Grand Juries went to great lengths in conducting their investigations, as the Orange County report explains:

The Grand Jury completed its study through interviews with Hot Line staff and emergency response investigators at Children and Family Services as well as in-depth discussions with the administrative and program leadership of the agency. The Grand Jury interviewed local police agencies and reviewed their policies and procedures. The Grand Jury obtained CACI definitions and requirements from the state Department of Justice and reviewed internal reports and documents issued by CFS and local police agencies. Additionally, the Grand Jury reviewed all appropriate state and federal guidelines regarding Child Abuse Central Index and reports published by prior California Grand Juries.

The extent to which these two critical reports may have played a decisive role in the passing of the legislation is a question best left open for historians, however the arguments they set forth are worthy of review by advocates seeking similar reforms in their own states.

## SOLANO GRAND JURY FINDINGS

Individuals whose names appear on the Registry often appeal the placement, however the appeal may or may not result in removal from the list. The Solano County Jury notes that it can be difficult and expensive to challenge a listing. During the timeframe of July 2006 to December 2008, Solano County residents listed on the Registry were only successful in challenging their listings between 10 to 50 percent of the time.

As the Solano Grand Jury explained, following an investigation, and using the information gathered, the Social Worker “makes one of three determinations” as defined in the California Penal Code:

- ❶ **Unfounded:** The report is determined by the investigator who conducted the investigation to be false, inherently improbable, to involve an accidental injury, or to not constitute child abuse. The person’s name is not submitted to be listed on CACI.
- ❷ **Inconclusive:** A report is determined by the investigator, who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to

determine whether child abuse and/or neglect have occurred. The person's name is placed on the CACI list and remains for 10 years (if no further incidents occur).

☛Substantiated: The report is determined by the investigator who conducted the investigation to constitute child abuse and/or neglect. The person's name is permanently placed on the CACI list.

Part of the problem are the burdensome and often-contradictory regulations that come with shifting mandates. The practical effect of all this, as the Jury explained, is that: "CPS does not have investigative manuals designed to teach and direct Social Workers in their duties and responsibilities in Solano County. The materials used by CPS comprise many binders containing broad guidelines provided by the State of California and the Northern California Training Academy. They are designed to assist employees and are not meant to be specific to Solano County. The manuals are voluminous, sometimes vague, and confusing. A reader would have to spend hours in researching a single subject."

This is not the first time that Solano County's Grand Jury had visited this particular issue. The 2008-2009 Jury echoed the findings of some of its prior reports:

☛There was an absence of manager signatures on reports documenting managerial review, decisions, and/or approval

☛When Social Workers prepared their reports based on their observations in the field, the content of the reports were sometimes altered by the supervisors and/or managers; consequently, Social Workers were given the option to refuse to sign altered reports or clarify in court testimony that they did not personally write portions of what might be viewed as evidence

☛There was confusion on the part of CPS staff regarding procedures and policies

☛There was oversensitivity to negative feedback

☛There was a lack of mutual accountability and teamwork at all levels

☛CPS has continued to demonstrate an inability to self-correct, although there have been internal and external attempts to correct these deficiencies; its organizational culture is subverting the achievement of the CPS mission.

The Jury found instances in which people who had not even been interviewed were nevertheless placed on the Registry, or who may not have been informed of an impending listing, or of their right to appeal. As the Jury concluded:

There is a fine line between Unfounded and Inconclusive determinations. An Inconclusive determination automatically places an alleged offender's name on the Child Abuse Central Index without conclusive evidence and a legal framework to ensure due process. This may give the appearance of "guilty until proven innocent," contrary to legal tradition.

For many years, family and child advocates have asserted that the presumption of innocence is turned upside-down when it comes to child abuse investigations. Many assert that this presumption of being "guilty until proven innocent" runs throughout the entire fabric of the child protection industry; from initial investigations through removals, as well as through the various stages of

administrative and legal proceedings that may follow.

## **ORANGE COUNTY'S EXAMINATION**

In 2009, "Orange County added the names of 792 county residents to the state list of child abusers based on investigations that did not establish sufficient evidence to say that abuse had occurred. The names of the accused were sent to the Child Abuse Central Index (CACI) in an Inconclusive category. Those accused with an inconclusive report can remain on the list for 10 years from the last report," begins Orange County's Grand Jury Report.

As is the case in all of California's Counties, the information is maintained in a centralized location by the state's Department of Justice, and this information "is made available to employers who have interaction with children, including schools, law enforcement, child welfare agencies, foster homes, adoption agencies, and licensed child care homes."

The Orange County study explains that the "process and guidelines for placing someone on the Child Abuse Central Index based on an Inconclusive finding are confusing, highly subjective and provide little protection for those individuals falsely accused of abuse." More to the point, the report came to the critical finding that:

The California Penal Code requires that a result of an Inconclusive finding be reported and placed on the Child Abuse Central Index because there is insufficient evidence to make a determination of whether abuse occurred.

This represents a conflict with the American legal principle of innocent until proven guilty.

The Jury notes that there are "numerous examples" in which a court finding in favor of an accused did not result in removal of the name from the Registry. Children and Family Services is not required to respond to a court action, the Jury explains, and the agency may on its own determine that there are other reasons to retain the name on list. Since Registry listings can be made without a criminal complaint even being filed, "there is no opportunity for the accused to prove innocence in a court of law."

## **THE CANRA TASK FORCE**

It was an Assembly Bill during California's 2001-2002 legislative session that established the the Child Abuse And Neglect Reporting Act Task Force, which came to be commonly known as the CANRA Task Force. The report itself candidly explains that: "Calls for legislative reform, as well as litigation, were the impetus for the creation of the CANRA Task Force."

By the time the Task Force came into being, Californians had been impacted by the state's reporting laws for forty years. Efforts at reforming the laws in the legislature failed to gain ground, hence a compromise measure was reached establishing the Task Force.

California's Child Abuse And Neglect Reporting Act was "premised on the belief that reporting suspected child abuse is fundamental to protecting children." The legislative purposes behind the Act are: (1) to identify child abuse victims for early intervention and protection by public authorities as early as possible; and (2) to provide "an important source of information assisting local law enforcement officials and child protective agencies in identifying, apprehending and prosecuting child abusers." The statutory procedures for reporting have been deemed by California courts as being "essential" in accomplishing these goals, the report explains.

So, what exactly *was* the problem? In short, that there was a broad and grey area between a finding of “substantiated” and “unsubstantiated.” By definition, 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.”

As of 2004, the Index contained approximately 905,000 entries, listing about 810,000 suspects, and 1,000,000 potential victims. Per year, California’s Department of Justice received approximately 35,000 new reports to be added to the Index; some 10,000 inquiries for investigative purposes; and 40,000 inquiries for non-investigative functions.

“Although the Task Force followed its mandate to review the value of the Index in protecting children, the most prevalent calls for change were from individuals whose names had been placed on the Index as suspects,” the Task Force found.

“Additionally, individuals who believed their names had been unfairly placed on the Index as suspects contended that their inability to challenge placement of their name before being listed and their inability to remove their names afterwards, without expending significant monies on attorneys, amounted to a violation of their due process rights.”

One of the key findings of the Task Force was the wide discrepancies between Counties and how or whether they provided any avenue of due process to challenge a listing on the Registry:

Due to the expense and complexity of private litigation options, leaving such as the sole method to address due process concerns places an enormous hurdle before all suspects wishing to challenge a CACI listing and makes such a challenge all but impossible for low or moderate income suspects. The law already requires notice to suspects, but then provides no method to act on that notice if a suspect believes that the government’s action is inappropriate. While some counties appear to have informal mechanisms to address requests for listing removal, most do not appear to have such. In fact, it appears that there are still counties in which the notice requirement is not effectively in place. Such inconsistent access to process, if there is process at all, does not square with the concept of fairness and calls for some type of consistent, statewide process to be in place to address this issue.

The Task Force is concerned that a suspect’s county of residence should not determine the level of process available. The Task Force also believes it is unfair for residents of one county to have access to a governmental review at little or no cost as residents of another county are required to hire expensive counsel and file suit to obtain review.

In summary, while the Task Force made a few worthwhile recommendations, precious little meaningful change came of the effort. For historical purposes, its work perhaps stands as a highly detailed model of how *not* to run an abuse Registry.

## REMARKABLE RESILIANCY

As harmful as the Child Abuse Central Index may have been, it nevertheless enjoyed a remarkable resilience, having withstood several legal challenges.

In a case that gathered media attention, Catherine Donahue Burt, a chronic sufferer of migraines who took regular injections of Demerol, realized that her syringe had slipped out of her pajama pocket as she was putting her baby to sleep. She frantically called 911 for help.

“Paramedics and emergency-room doctors later determined that no Demerol had gotten into the baby’s system, according to Knight-Ridder News Service.

“But nearly a year later, Burt said she regrets making that call.”

It wasn’t so much that the police placed the child in the County’s “temporary custody pending completion and review of a full investigation of the incident” that did it. Two days later, the child was returned unharmed. Rather, Burt was informed that the result a “probe” by the County determined that her name was to be put on the Registry, without any recourse for an appeal.

Burt, herself a pharmacist, and her husband, a decorated navy pilot, fought to clear her name, and on June 30, 2004, victory arrived in the form of a Court of Appeals ruling that held that under the Constitution, “Procedural due process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment.”

This was the first of the meaningful legal challenges to the Registry.

On July 27, 2004, the Orange County Board of Supervisors, in a closed-door session, by a vote of 3 to 2, voted to authorize “County Counsel to file a petition for review in the California Supreme Court in the case of Catherine Dohahue Burt v. County of Orange, et al.” Supervisors Wilson, and Silva voted in favor, and Supervisors Norby and Campbell voted against the proposal.

On December 6, 2005 — also during a closed-door session — the Orange County Board of Supervisors did a remarkable about-face, and in consultation with County Counsel unanimously approved a settlement in the Burt case.

*Burt v Orange County* was followed by *Gomez v. Saenz*. That lawsuit originated in July 2004, and it was settled on October 9, 2007. The suit addressed the rights of individuals whose names either are — or will be — listed on the California Child Abuse Central Index.

Based on the settlement agreement, beginning March 1, 2008, individuals were to be provided appropriate notice of their CACI listing, as well as of their right to appeal the listing via an administrative grievance procedure. In addition, the settlement allows individuals who may not have received a notice of their right to appeal prior to March 1, 2008, to challenge their continued listing on the CACI.

According to a Procedural Guide issued by the California Department of Social Services, keeping up with the legislative and judicial changes was becoming a fulltime job in and of itself, requiring several revisions to operating manuals along the way. The Guide explains:

Previously, in response to *Burt v. County of Orange*, DCFS established a process for individuals, who believe that DCFS incorrectly reported them to the Department of Justice or that their name was listed on the Child Abuse Central Index in error, to challenge DCFS’ action. However, because of the *Gomez v. Saenz* lawsuit, that process has been revamped to meet the requirements of the lawsuit settlement.

According to the updated procedures, under the terms of the *Gomez* settlement, the grievance officer conducting hearings challenging a listing on the Registry shall be:

• A staff or other person not involved in the investigation of the alleged child abuse or severe

neglect.

Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the investigation of the alleged abuse or severe neglect unless the grievance officer is the Director or Deputy Director of DCFS.

Knowledge in the field of child abuse or neglect investigations and capable of objectively reviewing the complaint.

### **TAKE A LETTER, MARIA: THE NUTS AND BOLTS OF IMPLEMENTING GOMEZ**

In a letter addressed to all county directors on the state's Department of Social Services letterhead, Mary L. Ault, Deputy Director of the Department's Children and Family Services Division, informed one and all of the changes that the Gomez settlement would bring to day-to-day operations.

The letter, dated December 28, 2007, was addressed to All County Welfare Directors, All Child Welfare Services Program Managers, and Chief Probation Officers. The letter explained that:

The Gomez v. Saenz lawsuit originated in July 2004, and was settled on October 9, 2007. The lawsuit addresses the rights of individuals whose names either are or will be listed on the CACI. Based on the settlement agreement, beginning March 1, 2008 individuals are to be provided appropriate notice of their CACI listing as well as the right to appeal. In addition, the settlement allows individuals who may not have received a notice of their right to appeal prior to March 1, 2008, to challenge their listing on the CACI.

There were specific public notification requirements. Child welfare agencies and Community Care Licensing Division offices were "required to post for 30 days (in a prominent manner in locations to which the public has regular access) a notification informing the public of their right to determine whether or not their name is listed on the CACI."

These notifications were to be distributed prior to March 1, 2008. In addition to the posting of notifications, the settlement required publication of the same information in both English and Spanish newspapers that had widespread circulation.

The purging of the Registry itself was to begin *immediately*. Also to be purged were those files "where no underlying files exist," such as those that may have been destroyed as a result of floods or fires. (The true extent to which the estimated 800,000 files may have sat on the Registry without any supporting documentation may never be known.) The letter also specified the timeframes required for the great purge to begin:

#### **Next Steps**

"Because this is a legal settlement with specific requirements," the letter explained, "the activities must be carried out as specified in the settlement. It is important that the implementation of the activities is carried out in a consistent manner throughout the state in order to assure accurate notification and purging of unsupported CACI listings." The timelines for settlement activities follow:

Fall 2007

☛Begin purge process to remove from the CACI those names or dates for which supporting documentation is unavailable.

March 1, 2008

☛Post and Publish notifications of individual's right to determine CACI listing and to request grievance hearing

September 1, 2008

☛Survey to begin in 12 counties as noted in the settlement.

More detailed instructions regarding implementation were said to be forthcoming, and were to include "the required noticing forms and grievance procedures, as well as Q & A from the counties."

### **THE CONSTITUTION, DUE PROCESS, AND CHILD WELFARE WORKERS**

By May of 2009, the Central California Training Academy at California State University, Fresno, had established the *Gomez vs. Saenz Settlement: Training for Child Welfare Workers & Supervisors*. Much to their credit, the designers of the curriculum devote attention to the civil liberties that most citizens take for granted.

In a section of the training module under the heading "The Constitution, Due Process, and Child Welfare Workers," Constitutional protections against government actions are specifically explained to trainees, including the provisions of the Fifth and Fourteenth Amendments to the Constitution.

"The actions taken by child welfare services workers often affect people's liberty rights," the training module explains, citing as examples:

- ☛Parents have the liberty right of freedom of personal choice in matters of family life, including the right to raise their children.
- ☛Children have the liberty right to grow up in a permanent, secure, stable and loving environment, free from abuse or neglect.
- ☛A person accused of abuse or neglect has the liberty right to ensure that his or her "good name" and reputation are not stigmatized by false information maintained by the government, where it is likely that members of the public will see the damaging information.

The training module clearly explains the *rationale* underlying due process:

Remember what the framers of the Constitution had in mind when they created the Constitution — protecting the people from abuse by their government. Therefore, the due process protections set forth in the Fifth and Fourteenth Amendments to the Constitution are intended:

- ☛To protect individuals from unwarranted or arbitrary governmental intrusion.

☛To prevent the government from abusing its power over individuals.

After continuing on to describe the concepts of due process, substantive and procedural — including such vital elements as being provided with notice and having a meaningful opportunity to be heard — the training module hammers the point home to case workers and other child protection personnel in training, emphasizing:

You work for the County. California's county governments are considered subdivisions of State government. Bottom line:

**YOU represent the GOVERNMENT!!**

## **THE LUCRATIVE INDUSTRY OF REFORM**

The Bay Area Training Academy, operated by San Francisco State University, put together a similar curriculum, featuring a two-day conference to be held on December 2 and 3, 2008, on the topic of "Gomez v. Saenz Hearing Officer Training."

The first day focused on "background information and history on Gomez, during which Diane Brown and Mary Shepard, both of the Department of Social Services, were to "present an overview of the implications of Gomez including regulations and implementations.

Attendees on the second day of the conference were in for a treat. Not only did they enjoy a continental breakfast, but they were also treated to a seminar provided by Honorary Jose Banuelos, Presiding Administrative Law Judge of the Fresno Regional Office. The event was held at the Contra Costa Social Services Department, in Hercules, California, and the day two conference was restricted to hearing officers only.

Such training doesn't come cheap, in the child welfare industry. A memorandum sent out on City and County of San Francisco Human Services Agency letterhead, dated September 18, 2009, indicates that the Bay Area Training Academy had been awarded a generous grant of \$2,547,626 for training provided between July 1, 2006 through December 31, 2009. The substance of the letter was such that a modest increase of \$76,660 was to be allotted to the Academy, bringing its total for training to \$2,624,286.

The money was "for the provision of training services and curriculum development for the 'Strengthening Families, Community and Neighborhood Deciding as One' initiative; and, training and consultant services for Family and Children's services to ensure compliance with the Gomez v. Saenz Grievance Process, in the amount of \$76,660 for the period of October 1, 2009 to December 31, 2009."

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## **RELATED READING**

Governor Brown Press Releases.

Text of Assembly Bill 717.

CACI: Child Abuse Central Index, Guilty Until Found Innocent, Orange County Grand Jury 2009-10.



Health and Social Services Child Abuse Reporting, 2008-09 Solano County Grand Jury.

L.A. Superior Court Settlement Gomez v. Saenz.

Gomez v. Saenz Trainee Manual.

Burt v County of Orange(2004) 120 Cal.App.4th 273, 15 Cal.Rptr.3d 373, review den. Sept. 15, 2004.

Writeup on Burt case by Attorney Richard Gaines Heston.

Humphries v Los Angeles, 554 F. 3d 1170, Court of Appeals, 9th Cir.

Related Documents.

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Effective: January 1, 2013

West's Annotated California Codes Currentness

Penal Code (Refs & Annos)

Part 4. Prevention of Crimes and Apprehension of Criminals (Refs & Annos)

Title 1. Investigation and Control of Crimes and Criminals (Refs & Annos)

Chapter 2. Control of Crimes and Criminals (Refs & Annos)

Article 2.5. Child Abuse and Neglect Reporting Act (Refs & Annos)

→→ § 11169. Child abuse or neglect reports; transmittal of substantiated reports to Department of Justice; notice to known or suspected child abuser of report to Child Abuse Central Index (CACI); hearing to challenge CACI listing; grounds for denial of hearing; removal of person from CACI; retention of reports; immunity

(a) An agency specified in Section 11165.9 shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be not substantiated, the Department of Justice shall be notified in writing of that fact and shall not retain the report. 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. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

(b) On and after January 1, 2012, a police department or sheriff's department specified in Section 11165.9 shall no longer forward to the Department of Justice a report in writing of any case it investigates of known or suspected child abuse or severe neglect.

(c) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI). The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

(d) Subject to subdivision (e), any person who is listed on the CACI has the right to a hearing before the agency that requested his or her inclusion in the CACI to challenge his or her listing on the CACI. The hearing shall satisfy due process requirements. It is the intent of the Legislature that the hearing provided for by this subdivision shall not be construed to be inconsistent with hearing proceedings available to persons who have been listed on the CACI prior to the enactment of the act that added this subdivision.

(e) A hearing requested pursuant to subdivision (d) shall be denied when a court of competent jurisdiction has determined that suspected child abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the CACI is pending before the court. A person who is listed on the CACI and has been denied a hearing pursuant to this subdivision has a right to a hearing pursuant to subdivision (d) only if the court's jurisdiction has terminated, the court has not made a finding concerning whether the suspected child abuse or neglect was substantiated, and a hearing has not previously been provided to the listed person pursuant to subdivision (d).

(f) Any person listed in the CACI who has reached 100 years of age shall have his or her listing removed from the CACI.

(g) Any person listed in the CACI as of January 1, 2013, who was listed prior to reaching 18 years of age, and who is listed once in CACI with no subsequent listings, shall be removed from the CACI 10 years from the date of the incident resulting in the CACI listing.

(h) If, after a hearing pursuant to subdivision (d) or a court proceeding described in subdivision (e), it is determined the person's CACI listing was based on a report that was not substantiated, the agency shall notify the Department of Justice of that result and the department shall remove that person's name from the CACI.

(i) Agencies, including police departments and sheriff's departments, shall retain child abuse or neglect investigative reports that result or resulted in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the CACI pursuant to this section and subdivision (a) of Section 11170. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.

(j) The immunity provisions of Section 11172 shall not apply to the submission of a report by an agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

#### CREDIT(S)

(Added by Stats.1980, c. 1071, § 4. Amended by Stats.1981, c. 435, § 4, eff. Sept. 12, 1981; Stats.1985, c. 1598, § 8; Stats.1988, c. 269, § 4; Stats.1988, c. 1497, § 1; Stats.1997, c. 842 (S.B.644), § 5; Stats.2000, c. 916 (A.B.1241), § 27; Stats.2001, c. 133 (A.B.102), § 14, eff. July 31, 2001; Stats.2004, c. 842 (S.B.1313), § 17; Stats.2011, c. 468 (A.B.717), § 2; Stats.2012, c. 848 (A.B.1707), § 1.)

#### VALIDITY

*A prior version of this section was held unconstitutional as violating due process in the decision of Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077.*

## HISTORICAL AND STATUTORY NOTES

## 2011 Main Volume

The 1981 amendment inserted in the first sentence "known or" preceding "suspected" and added at the end of the first sentence "other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165".

The 1985 amendment rewrote this section, which read.

"A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of known or suspected child abuse which it investigates, whether or not any formal action is taken in the case other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165. However, if after investigation the case proves to be unfounded no report shall be retained by the Department of Justice. If a report has previously been filed which has proved unfounded the Department of Justice shall be notified of that fact. The report shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice."

The 1988 amendment by c. 1497, substituted "subdivision (b) of Section 11165.2" for "the provisions of paragraph (2) of subdivision (c) of Section 11165" and "Section 11165.12" for "subdivision (n) of Section 11165".

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code § 9605.

Stats.1997, c. 842, designated the existing text as subs. (a) and (d); inserted subs. (b) and (c), relating to notice to known or suspected abusers and retention of reports; and made a nonsubstantive change.

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

Stats.2000, c. 916 (A.B.1241) rewrote this section, which read:

"(a) 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, other than cases coming within subdivision (b) of Section 11165.2. 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. 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 and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send that report to the Department of Justice.

“(b) At the time a child protective agency forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

“(c) Child protective agencies shall retain child abuse investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section. Nothing in this section precludes a child protective agency from retaining the reports for a longer period of time if required by law.

“(d) The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.”

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

“This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180.”

Stats.2001, c. 133 (A.B.102), in subd. (a), inserted “severe” in the first sentence.

Stats.2004, c. 842 (S.B.1313), in subd. (c), inserted “and subdivision (a) of Section 11170”.

Commission on State Mandates claim provisions relating to Stats.2004, c. 842 (S.B.1313), see Historical and Statutory Notes under Penal Code § 11165.3.

2013 Electronic Pocket Part Update

2011 Legislation

Stats.2011, c. 468 (A.B.717), rewrote this section, which read:

“(a) An agency specified in Section 11165.9 shall 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 not to be unfounded, other than cases coming within subdivision (b) of Section 11165.2. An 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. 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 and shall not retain the report. 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. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

“(b) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

“(c) Agencies shall retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section and subdivision (a) of Section 11170. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.

“(d) The immunity provisions of Section 11172 shall not apply to the submission of a report by an agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.”

For cost reimbursement provisions relating to Stats.2011, c. 468 (A.B.717), see Historical and Statutory Notes under Penal Code § 11165.12.

#### 2012 Legislation

Stats.2012, c. 848 (A.B.1707), inserted a new subd. (g); and redesignated former subds. (g) to (i) as new subds. (h) to (j), respectively.

#### CROSS REFERENCES

Child abuse or neglect defined for purposes of this Article, see Penal Code § 11165.6.

#### CODE OF REGULATIONS REFERENCES

Administration of the Child Abuse Central Index,

DOJ notification when a submitting agency provides names identified in existing CACI entries, see 11 Cal. Code of Regs. § 904.

Entities authorized to access CACI information may not make determinations based solely on the CACI listing, see 11 Cal. Code of Regs. § 903.

Form required for submitting report of suspected child abuse or severe neglect, see 11 Cal. Code of Regs. § 900.

Releasing CACI information in response to inquiries from authorized entities, see 11 Cal. Code of Regs. § 905.

Responsibilities of agencies submitting reporting form, see 11 Cal. Code of Regs. § 902.

Reports of child abuse in out-of-home care facilities,

Child welfare agency duties and responsibilities, see 11 Cal. Code of Regs. § 930.52.

Enforcement of guidelines, see 11 Cal. Code of Regs. § 930.70.

Final report, see 11 Cal. Code of Regs. § 930.62.

Follow-up investigation, see 11 Cal. Code of Regs. § 930.61.

Follow-up reporting requirements, see 11 Cal. Code of Regs. § 930.43.

Law enforcement duties and responsibilities, see 11 Cal. Code of Regs. § 930.51.

Notification requirements, see 11 Cal. Code of Regs. § 930.42.

Preliminary investigation, see 11 Cal. Code of Regs. § 930.60.

Unfounded reports, see 11 Cal. Code of Regs. § 930.44.


#### LAW REVIEW AND JOURNAL COMMENTARIES

Chapter 842: Extending provisions of the Child Abuse and Neglect Reporting Act. Andrea E. Pelochino, 36 McGeorge L.Rev. 831 (2005).

A pointer system that points to the nonexistent: Problems with the Child Abuse Central Index (CACI). Alisha M. Santana, 4 Whittier J. Child & Fam. Advoc. 115 (2004).

#### LIBRARY REFERENCES

2011 Main Volume

Infants  17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons §§ 10 to 14, 41.

C.J.S. Infants §§ 6, 8 to 9.

#### RESEARCH REFERENCES

##### ALR Library

36 ALR 6th 475, Constitutional Challenges to State Child Abuse Registries.

73 ALR 4th 782, Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse.

##### Encyclopedias

40 Am. Jur. Proof of Facts 3d 237, Governmental Liability for Liberty or Privacy Deprivation Resulting from Erroneous Information in Agency Records.

CA Jur. 3d Constitutional Law § 210, Nature of Liberty Interest.

Cal. Jur. 3d Criminal Law: Core Aspects § 58, Duty of Child Protective Agency.

Cal. Jur. 3d Criminal Law: Core Aspects § 59, Duty of Department of Justice.

##### Treatises and Practice Aids

5 Witkin, California Summary 10th Torts § 140, (S 140) in General.

#### NOTES OF DECISIONS

Confidentiality 3

Due process 2

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Review 7

Validity 1

##### 1. Validity

Child Abuse and Neglect Reporting Act (CANRA), which governed maintenance of state's Child Abuse Central Index



(CACI), violated Due Process Clause by failing to afford persons listed fair opportunity to challenge allegations against them; CANRA lacked both meaningful procedural safeguards before initial placement and effective process for removal of erroneous listings, erroneous listees had strong private interest in not being stigmatized, and governmental interest in protecting children from abuse would not be harmed by system that sought to clear those falsely accused. Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077. Constitutional Law ⚡4403; Infants ⚡1006(9); Infants ⚡1468

## 2. Due process

Governmental interest factor did not weigh against requiring California to furnish additional process for correction of erroneous listings in its Child Abuse Central Index (CACI), in parents' § 1983 due process action challenging their continued, erroneous listing; although state had significant interest in maintaining even "inconclusive" reports in database, it also had interest in not maintaining incorrect or false information, and affording additional procedures for challenges to listings constituted type of administrative costs state governments were expected to shoulder. Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077. Constitutional Law ⚡4403; Infants ⚡1468

On due process challenge to statutory scheme for California's Child Abuse Central Index (CACI), statutory provision for some listees to obtain judicial review after denial of licenses or other statutory privileges because of listing constituted inadequate safeguard against erroneous listing; even if individual was ultimately successful and obtained license or other statutory privilege in spite of listing, it had no apparent impact on listing itself. Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077. Constitutional Law ⚡4403; Infants ⚡1006(18); Infants ⚡1468



## 3. Confidentiality




The information in the California department of justice child abuse files, which is to be used in furtherance of investigating suspected child abuse and carrying out the purpose of the Child Abuse Reporting Law (§ 11165 et seq.), namely the protection of children, must be provided to child protective agencies submitting a report, or to a district attorney who has requested notification of a suspected child abuse case, but the department is not obligated to furnish this information to other persons or agencies. 65 Op.Atty.Gen. 335, 6-1-82.

## 4. Maintenance of child abuse reports


Under California's Child Abuse and Neglect Reporting Act (CANRA), child protective agencies are required to forward child abuse reports, except unfounded reports, to the Department of Justice, which then maintains an index of such reports. Miller v. California, C.A.9 (Cal.)2004, 355 F.3d 1172. Infants ⚡1439; Infants ⚡1509; Infants ⚡3174

### 5. Erroneous listing


Risk of erroneous deprivation and probable value of additional procedural safeguards weighed against finding of adequacy as to existing safeguards against erroneous listings in California's Child Abuse Central Index (CACI), on listed parents' § 1983 due process challenge; erroneous listings were quite likely, given very low “not unfounded” threshold for initial listing, and safeguards afforded were inadequate, including listee's right to attempt to persuade investigator of error, and consulting agency's responsibility to reach its own independent conclusion. Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077. Constitutional Law 4403; Infants 1471

On due process challenge to statutory scheme for California's Child Abuse Central Index (CACI), scheme's permitting listee to attempt to persuade investigator of error constituted inadequate safeguard against erroneous listing; statutes did not require investigator to respond to such requests, and provided no standard for investigator's reevaluation of his judgment, and no one other than investigator was required to respond, so that investigator was placed in dual role as adjudicator. Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077. Constitutional Law 4403; Infants 1006(18); Infants 1468


### 6. Qualified immunity

Officer who obtained arrest warrants for parents on charges of child abuse, effected arrest, and completed investigation report that led to parents' being listed in state's child abuse database was entitled to qualified immunity in parents' subsequent § 1983 due process action challenging their listing; officer relied on state statutory system governing maintenance of database that was not so obviously unconstitutional as to suggest to officer that he ought not abide by statutes' provisions. Humphries v. County of Los Angeles, C.A.9 (Cal.)2009, 554 F.3d 1170, as amended, certiorari granted in part 130 S.Ct. 1501, 176 L.Ed.2d 108, reversed and remanded 131 S.Ct. 447, 178 L.Ed.2d 460, on remand 649 F.3d 1077. Civil Rights 1376(6)

### 7. Review

Father's challenge to the listing of his name on the Child Abuse Central Index (CACI), as a result of an inconclusive determination of a child abuse investigation involving his daughter, implicated a fundamental vested right such that an independent judgment standard of review applied to county's determination that child abuse allegations were inconclusive rather than unfounded. Saraswati v. County of San Diego (App. 4 Dist. 2011) 135 Cal.Rptr.3d 671, 202 Cal.App.4th 917. Infants 1473

Trial court's comments during hearing that “if this were an independent judgment test, I would be siding with” father and that “I would be finding in his favor” did not constitute a thorough and considered application of the independent judgment standard and, thus, Court of Appeal, after determining that trial court improperly applied substantial evi-

dence standard of review to father's challenge to county's determination that child abuse allegations made against father were inconclusive rather than unfounded, would remand for review under the correct independent judgment standard, rather than reverse and order that judgment be entered in favor of father. Saraswati v. County of San Diego (App. 4 Dist. 2011) 135 Cal.Rptr.3d 671, 202 Cal.App.4th 917. Infants  1473

West's Ann. Cal. Penal Code § 11169, CA PENAL § 11169

Current with all 2012 Reg.Sess. laws, Gov.Reorg.Plan No. 2 of 2011-2012, and all propositions on 2012 ballots.

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