



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

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 methodology rates are adopted~~ 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 14th 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 ~~4416.5-11165.6~~ 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 ~~4416.5-11165.6~~ 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 ~~may~~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 ~~4416.5-11165.6~~ 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 ~~may~~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~~ 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) (6) (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/eccs