

**COMMISSION ON STATE MANDATES**

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August 5, 2014

Mr. Ed Jewik  
County of Los Angeles,  
Auditor-Controller's Office  
500 West Temple Street, Room 603  
Los Angeles, CA 90012-2766

Ms. Jill Kanemasu  
State Controller's Office  
Division of Accounting and Reporting  
3301 C Street, Suite 700  
Sacramento, CA 95816

*And Parties, Interested Parties and Interested Persons (See Mailing List)*

**RE: Draft Proposed Statewide Cost Estimate, Schedule for Comments, and Notice of Hearing**

*Interagency Child Abuse and Neglect Investigation Reports, 00-TC-22*  
Penal Code Sections 11165. 9 et al.  
County of Los Angeles, Claimant

Dear Mr. Jewik and Ms. Kanemasu:

The draft proposed statewide cost estimate for this matter is enclosed for your review and comment.

**Written Comments**

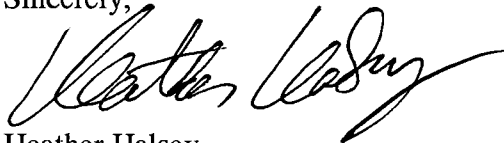
Written comments on the draft proposed statewide cost estimate may be filed by **August 15, 2014**.

**Hearing**

This matter is set for hearing on **Friday, September 26, 2014** at 10:00 a.m. in Room 447, State Capitol, Sacramento, CA. The proposed statewide cost estimate will be issued on or about September 12, 2014. This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on consent and wish to testify at the hearing or have a representative testify on your behalf, and if other witnesses will appear.

Please contact Kerry Ortman at (916) 323-3562 if you have questions.

Sincerely,



Heather Halsey  
Executive Director

**Item \_\_**

**DRAFT PROPOSED STATEWIDE COST ESTIMATE**

**\$87,376,589**

**(Approximate Prospective Cost of \$5,396,220 Annually)**

Penal Code Sections 11165.9, 11166, 11166.2, 11166.9<sup>1</sup>, 11168 (formerly 11161.7), 11169, 11170, and 11174.34 (formerly 11166.9) as added or amended by Statutes 1977, Chapter 958; Statutes 1980, Chapter 1071; Statutes 1981, Chapter 435; Statutes 1982, Chapters 162 and 905; Statutes 1984, Chapters 1423 and 1613; Statutes 1985, Chapter 1598; Statutes 1986, Chapters 1289 and 1496; Statutes 1987, Chapters 82, 531, and 1459; Statutes 1988, Chapters 269, 1497, and 1580; Statutes 1989, Chapter 153; Statutes 1990, Chapters 650, 1330, 1363, and 1603; Statutes 1992, Chapters 163, 459, and 1338; Statutes 1993, Chapters 219 and 510; Statutes 1996, Chapters 1080 and 1081; Statutes 1997, Chapters 842, 843, and 844; Statutes 1999, Chapters 475 and 1012; and Statutes 2000, Chapter 916

California Code of Regulations, Title 11, Section 903 (Register 98, Number 29)

“Child Abuse Investigation Report” Form SS 8583 (Rev. 3/91)

*Interagency Child Abuse and Neglect Investigation Reports*  
00-TC-22

County of Los Angeles, Claimant

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

This mandate addresses amendments to California’s mandatory child abuse reporting laws commonly referred to as ICAN.

On December 19, 2007, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statutes impose a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the reimbursable activities described in section IV, as they are performed by city and county police or sheriff’s departments, county welfare departments, county probation departments designated by the county to receive mandated reports, district attorneys’ offices, and county licensing agencies.

Eligible claimants were required to file initial reimbursement claims, for costs incurred between July 1, 1999, and June 30, 2013, with the State Controller’s Office (SCO) by July 15, 2014.<sup>2</sup>

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<sup>1</sup> Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 (SB 1313)).

<sup>2</sup> State Controller’s Office, Interagency Child Abuse and Neglect (ICAN) Investigation Reports Claiming Instructions Number 2014-03R, dated April 28, 2014.

Late initial reimbursement claims may be filed until July 15, 2015.<sup>3</sup> Annual reimbursement claims for fiscal year 2013-2014 are due by February 18, 2015.

### Eligible Claimants and Period of Reimbursement

Any city, county, and city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on June 29, 2001, establishing eligibility for reimbursement for the 1999-2000 fiscal year. Therefore, costs incurred on or after July 1, 1999 are reimbursable under this test claim for statutes in effect before July 1, 1999. For statutes effective after July 1, 1999, they are reimbursable as specified in the parameters and guidelines.

However, Penal Code section 11169 was amended in Statutes 2011, chapter 468 (AB 717), effective January 1, 2012, to repeal the mandate for law enforcement agencies to report to DOJ, and to require that all other affected departments in the local agencies report to DOJ only “substantiated” reports of suspected child abuse, and not “inconclusive” reports.

Thus, law enforcement agencies are eligible for reimbursement for the costs of completing investigations of suspected child abuse in order to determine whether a report of suspected child abuse is unfounded, inconclusive, or substantiated, for the purpose of forwarding those reports to DOJ from July 1, 1999 until December 31, 2011. In addition, law enforcement agencies are eligible for reimbursement for the costs of notifying suspected abusers that they have been listed in the Child Abuse Central Index at the time that a report is submitted to DOJ from July 1, 1999 until December 31, 2011, when the mandate to forward reports to DOJ was repealed.

For all other affected local agencies, the reimbursement period for forwarding reports that are “inconclusive” to DOJ is reimbursable from July 1, 1999 until December 31, 2011. On and after January 1, 2012, only forwarding reports to DOJ that are “substantiated” is reimbursable.

### **Reimbursable Activities**

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

#### **A. 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. (One-time costs only)
- 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]. (One-time costs only)

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<sup>3</sup> Government Code section 17568.

## 2. Training

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:

Develop and implement training for ICAN staff to implement 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 whose job responsibilities involve ICAN 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>4</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>5</sup>

- 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 Penal Code section 11165.6, except acts or omissions coming within subdivision (b) of section 11165.2, or

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<sup>4</sup> Penal Code section 11168, as added by Statutes 1980, chapter 1071 and amended by Statutes 2000, chapter 916.

<sup>5</sup> Penal Code sections 11165.9 (Stats. 2000, ch. 916, § 8 (AB 1241)).

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>6</sup>

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 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>7</sup>

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<sup>6</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>7</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

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:

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>8</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>9</sup>

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>10</sup>

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subdivision (i) by Statutes 2004, chapter 842 (SB 1313), and renumbered again at subdivision (j) by Statutes 2005, chapter 42 (AB 299).

<sup>8</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>9</sup> *Ibid.*

<sup>10</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)).

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.

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>11</sup>

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>12</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>13</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>14</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>15</sup>

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<sup>11</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>12</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>13</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>14</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>16</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>17</sup> Except as provided in paragraph below, this activity includes review of the initial Suspected Child Abuse Report (Form 8572), conducting initial interviews with parents, victims, suspects, or witnesses, where applicable, and making a report of the findings of those interviews, which may be reviewed by a supervisor.

***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 collection of physical evidence, the referral to a child abuse investigator, and the conduct of follow-up interviews.

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<sup>15</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>16</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>17</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.



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>18</sup>

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, 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>19</sup> Except as provided in paragraph below, this activity includes review of the initial Suspected Child Abuse Report (Form 8572), conducting initial interviews with parents, victims, suspects, or witnesses, where applicable, and making a report of the findings of those interviews, which may be reviewed by a supervisor.

***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

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<sup>18</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.

<sup>19</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.

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.

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>20</sup>

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>21</sup>

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<sup>20</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.

<sup>21</sup> Penal Code section 11169(c) (Stats. 1997, ch. 842, § 5 (SB 644); Stats. 2000, ch. 916 (AB 1241)).

This activity includes, where applicable, completion of the Notice of Child Abuse Central Index Listing form (SOC 832), or subsequent designated form.

***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 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>22</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>23</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>24</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>22</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>23</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>24</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>25</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>26</sup>

## 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

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<sup>25</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>26</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 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)).

received within the first 10-year period, the report shall be maintained for an additional 10 years.<sup>27</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>28</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 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 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>29</sup>**

## **Offsetting Revenues and Reimbursements**

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<sup>27</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>28</sup> (Penal Code section 11169(h) (Stats. 1997, ch. 842 (SB 644); Stats. 2000, ch. 916 (AB 1241)).

<sup>29</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.

The parameters and guidelines<sup>30</sup> provide:

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

To the extent that the claimant has used funding from other sources, as opposed to proceeds of taxes, to pay for the cost of the program, those costs are not reimbursable.

## **Statewide Cost Estimate**

### Assumptions

Staff reviewed the reimbursement claims data submitted by 58 cities and 3 counties and compiled by the SCO. The actual claims data showed that 61 initial claims were filed for fiscal years 1999-2000 through 2012-2013 for a total of \$87,376,589. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

- There are currently 58 counties and approximately 478 cities in California. Of those, only 58 cities and 3 counties filed claims. If eligible claimants file late or amended initial claims, the reimbursement claims would exceed the statewide cost estimate. Late initial claims for this program for fiscal years 1999-2000 through 2012-2013 may be filed until July 15, 2015.

- *The number of reimbursement claims filed will vary from year to year.*

This program allows reimbursement for certain specific activities associated with the mandatory reporting of child abuse and neglect. Claims will be case load driven and, thus, will vary annually depending on the number of incidences of child abuse and neglect that come to a mandatory reporting agencies notice.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable. The reimbursable activities in this program are only a small part of a larger process. Claimants may file claims for activities that, while part of the larger process, are not reimbursable and those claims may therefore be reduced by the SCO. In particular, the criminal investigation activity is not an approved activity for this program, so there may be reductions where costs were claims for investigations that went beyond what was needed to make the mandated determinations.

- *Future annual reimbursement for this program will likely be lower than the annual costs for the initial claims because there was a significant change in the activities "3.Reporting*

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<sup>30</sup> Exhibit B. Parameters and Guidelines.

to the State Department of Justice" and "4. Notifications Following Reports to the Child Abuse Central Index" as of January 1, 2012.

Beginning January 1, 2012 only county welfare departments, or county probation departments where designated by the county to receive mandated reports, may claim reimbursement for these activities. Prior to January 1, 2012 city and county police or sheriff's departments were able to claim reimbursement for these activities as well.

Methodology

*Fiscal Years 1999-2000 through 2012-2013*

The statewide cost estimate for fiscal years 1999-2000 through 2012-2013 was developed by totaling the 764 reimbursement claims filed with the SCO for these years, for a total of \$87,376,589. The projected annual future cost of \$2,372,670 is based on the 2012-2013 fiscal year only, since this is the only fiscal year for which the DOJ reporting requirements were reduced for county welfare departments and county probation departments and eliminated for city and county police or sheriff's departments for the whole fiscal year.

Following is a breakdown of estimated total costs per fiscal year:

| Fiscal Year  | Number of Claims Filed with SCO | Estimated Cost      |
|--------------|---------------------------------|---------------------|
| 1999-2000    | 48                              | \$4,422,281         |
| 2000-2001    | 50                              | \$3,872,054         |
| 2001-2002    | 52                              | \$4,522,439         |
| 2002-2003    | 55                              | \$5,008,052         |
| 2003-2004    | 56                              | \$5,772,679         |
| 2004-2005    | 56                              | \$6,265,180         |
| 2005-2006    | 57                              | \$6,490,501         |
| 2006-2007    | 57                              | \$6,832,461         |
| 2007-2008    | 56                              | \$8,684,168         |
| 2008-2009    | 56                              | \$9,342,465         |
| 2009-2010    | 60                              | \$9,975,649         |
| 2010-2011    | 61                              | \$9,877,865         |
| 2011-2012    | 55                              | \$3,938,125         |
| 2012-2013    | 45                              | \$2,372,670         |
| <b>TOTAL</b> | <b>764</b>                      | <b>\$87,376,589</b> |

**Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$87,376,589 (Approximate Prospective Cost of \$2,372,670 Annually)** for costs incurred in complying with the *Interagency Child Abuse and Neglect Investigation Reports* program.

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Placer and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On August 5, 2014, I served the:

**Draft Proposed Statewide Cost Estimate**

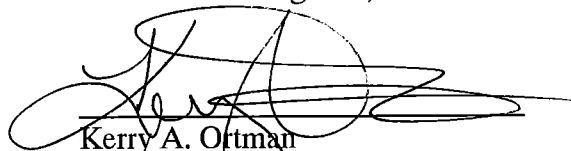
*Interagency Child Abuse and Neglect Investigation Reports, 00-TC-22*

Penal Code Sections 11165. 9 et al.

County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 5, 2014 at Sacramento, California.



Kerry A. Ortman  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 7/30/14

**Claim Number:** 00-TC-22

**Matter:** Interagency Child Abuse and Neglect (ICAN) Investigation Reports

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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