



County of Orange
California

Thomas G. Mauk
County Executive Officer

August 24, 2010

Honorable Kim G. Dunning
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "CACI
Child Abuse Central Index: Guilty Until Proven Innocent."

Dear Judge Dunning:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondent is Social Services Agency. If you have any questions, please contact Kathleen Long at (714) 834-7410 in the County Executive Office who will either assist you or direct you to the appropriate individual.

Sincerely,

Thomas G. Mauk
County Executive Officer

Enclosure

cc: 2009-10 Orange County Grand Jury

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2009-2010 Grand Jury Report
CACI Child Abuse Central Index: Guilty Until Found Innocent
Social Services Agency
Responses to Findings and Recommendations

Responses to Findings F.1 through F.4

- F.1** Agency staff and law enforcement have expressed a high degree of frustration with the Inconclusive category. It is confusing, highly subjective and provides little protection for those falsely accused of abuse. An Inconclusive finding is not consistent with the concept of innocent until proven guilty.

Response: Disagrees partially with the finding.

Social Services Agency (SSA) agrees that the *Inconclusive* category is a source of frustration to agency staff and law enforcement. Since May 1, 2008, Orange County has followed the procedure set forth in the Gomez v. Saenz lawsuit settlement. The California Superior Court allows individuals the opportunity to challenge their name listing on the Child Abuse Central Index (CACI) and state regulations implement this on a consistent, statewide basis. SSA has been following, and will continue to follow, the regulations set forth by the California Department of Social Services and reaffirmed by the Superior Court. SSA will join other counties in supporting a revision of the California Penal Code that would modify or eliminate the "Inconclusive" finding.

- F.2** Orange County police agencies can report names directly to CACI without notifying Children and Family Services.

Response: Agrees with the finding.

Penal Code Section 11169 states: "(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 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." According to the penal code, the agency conducting the active investigation is the one responsible for forwarding the report to the Department of Justice.

- F.3** A court decision does not always result in removal of a name from CACI by the Children and Family Services.

Response: Agrees with the finding.

- F.4** There is no system to verify that individuals received notification that their name had been placed on CACI.

Response: *Agrees with the finding.*

SSA notifies individuals that their name has been placed on CACI in accordance with state regulations which do not require verification that the individual received the notification.

The Orange County Social Services Agency (SSA) appreciates the 2009-10 Grand Jury acknowledgement that Children and Family Services (CFS) staff investigate child abuse in a professional and well-organized manner, that our SSA appeal procedure is unbiased, and that there is a high level of initial and ongoing training of all CFS social workers.

Responses to Recommendations R.1 through R.4

- R.1** Orange County should join other counties in supporting a revision of the California Penal Code that would eliminate or modify the Inconclusive finding.

Response: *The recommendation requires further analysis.*

SSA will request that the CWDA agendaize, for discussion, the issue of revision of the California Penal Code as it relates to the Inconclusive finding at the meeting to be held on January 13, 2011.

- R.2** Orange County CFS should be the central reporting agency for all county CACI reports and should conduct all grievance hearings.

Response: *The recommendation will not be implemented because it is not warranted or is not reasonable.*

By law, the State is the central reporting agency for all County and local law enforcement agency CACI reports. Penal Code Section 11169 requires police and Sheriff's departments to report to the DOJ and complete grievance hearings if they conducted the child abuse investigation.

- R.3** Case files should reflect oral and written notification of the suspects and any unsuccessful contact should be noted.

Response: *The recommendation has been implemented.*

CFS attempts to verbally inform suspects of CACI submissions and the *CFS Investigative Narrative* has a place to document if the suspect was successfully informed. The suspect is sent a written notification of the investigation outcome and CACI submission at the same time CFS sends the CACI submission paperwork to the Department of Justice (DOJ). CFS is also required to send the suspect the *Request for Grievance Hearing* and *Grievance Procedures for*

Challenging Reference to the CACI. It is CFS' current procedure to maintain copies of the written documentation sent to the suspect.

R.4 Registered Mail should be considered for written notifications.

Response: *The recommendation will not be implemented because it is not warranted or is not reasonable.*

The use of registered mail for written notifications is not required by state law, and current economic conditions preclude SSA from implementation of this recommendation. Use of registered mail could increase the current cost of mailing by a minimum of 150% for electronic return receipt notification to over 2,000% for registered mail.