

Child Welfare Services

California Can and Must Provide Better Protection and Support for Abused and Neglected Children

REPORT NUMBER 2011-101.1, ISSUED OCTOBER 2011

This report concludes that California can and must provide abused and neglected children better protection and support. Specifically, the Department of Social Services (Social Services), which oversees the child welfare services (CWS) system, needs to use the Department of Justice's (Justice) Sex and Arson Registry to better ensure that children—when removed from their homes—are provided safe out-of-home placements. Our comparison of addresses for registered sex offenders to Social Services' addresses for licensed facilities and out-of-home child placements found more than 1,000 matches. In July 2011 our office referred these address matches to Social Services for investigation. Social Services reported in October 2011 that it and county CWS agencies had investigated nearly all of these matches and found several registered sex offenders living or present in licensed facilities. Specifically, Social Services indicates it has begun legal actions against eight licensees (four temporary suspension orders and four license revocations) and issued 36 immediate exclusion orders (orders barring individuals from licensed facilities).

This report also concludes that county CWS agencies' increased reliance on foster family agencies has led to unjustified increases in out-of-home placement costs. The increased reliance on foster family agencies, which were originally meant as substitutes for expensive group homes for children with elevated treatment needs, has instead been accompanied by a matching drop in the use of less expensive licensed foster homes. One potential explanation for this trend is that Social Services does not require county CWS agencies to document the treatment needs of children who are placed with foster family agencies. Additionally, Social Services could not provide us with support for the monthly rate it pays foster family agencies—a rate that includes a 40 percent administrative fee.

Our review of county CWS agencies' investigatory and ongoing case management practices found that they generally comply with state regulations and county policies. Nonetheless, the agencies still need to improve the timeliness of investigations and the consistency of ongoing case visits. Our review also found that county CWS agencies generally performed required background checks before placing children in out-of-home placements, although they did not always forward information regarding instances of abuse or neglect to Justice, as required by state law at the time of our audit. Finally, we determined that county CWS agencies that do not formally conduct internal evaluations of the services they delivered to a family prior to a child's death from abuse or neglect are missing opportunities to identify needed changes that may prevent similar future tragedies.

In the report, the California State Auditor (state auditor) made the following recommendations to Social Services. The state auditor's determination regarding the current status of recommendations is based on Social Services' response to the state auditor as of December 2011.

Recommendation 1.1—See pages 20—22 of the audit report for information on the related finding.

To ensure that vulnerable individuals, including foster children, are safe from sex offenders, Social Services should complete follow-up on any remaining address matches our office provided in July 2011 and take appropriate actions, as well as relay information to Justice or local law enforcement for any sex offenders not in compliance with registration laws.

Social Services' Action: Fully implemented.

Social Services reported that it finished following-up on the outstanding address matches that our office provided in July 2011. In addition, it stated that it reported erroneous address data that it identified through the investigations to Justice. In a few instances, we questioned the appropriateness

of the actions taken by county CWS agencies in which they allowed sex offenders to remain in homes of children in the CWS system. Social Services stated that in certain circumstances counties do not have an obligation under current regulation or policy to remove children from homes due to the presence of a registered sex offender. However, counties are still required to determine the immediate risk and take appropriate steps to ensure the safety of children in these instances. Social Services indicated that counties have discretion over the action they take and that in certain situations it may be determined appropriate for a child to be in the home of a registered sex offender.

Assembly Bill 493 was amended in January 2012 and, if enacted, would create a general prohibition on registered sex offenders living or working in licensed children facilities or CWS placements. The bill provides that a registered sex offender could live in these locations as a client or if the prohibition is waived by a court because the offender is a parent or relative, and the placement of the child in the residence is in his or her best interest.

Recommendation 1.2—See pages 22—24 of the audit report for information on the related finding.

Social Services should begin to conduct regular address comparisons using Justice’s sex offender registry and its Licensing Information System and Child Welfare Services/Case Management System (CWS/CMS). If Social Services believes it needs additional resources to do so, it should justify and seek the appropriate level of funding. If efforts to obtain additional resources fail, Social Services should assign this high-priority task to existing staff.

Social Services’ Action: Partially implemented.

Social Services indicated that, in late December 2011, it began its first address comparison using its databases and Justice’s sex offender registry. Social Services stated that it will continue to refine this process to perform these address comparisons in an efficient manner and on a regular basis. Social Services added that it will assess its resource needs after it has had a chance to refine its process and determine the actual impact on its existing workload. If enacted, Assembly Bill 493 would require Social Services to perform these address comparisons at least quarterly.

Recommendation 1.3.a—See pages 24 and 25 of the audit report for information on the related finding.

To help keep children safe, the Legislature should consider enacting a general prohibition of registered sex offenders living or working in licensed children’s facilities or CWS placements.

Legislative Action: Legislation introduced.

Assembly Bill 493 would create a general prohibition on registered sex offenders living or working in licensed children facilities or CWS placements. The bill provides that a registered sex offender could live in these locations as a client or if the prohibition is waived by a court because the offender is a parent or relative, and the placement of the child in the residence is in his or her best interest.

Recommendation 1.3.b—See pages 24 and 25 of the audit report for information on the related finding.

To help keep children safe, the Legislature should consider enacting a requirement that all law enforcement staff overseeing sex offenders make sure that the addresses sex offenders submit for registration do not match a licensed facility for children or a foster home.

Legislative Action: Legislation introduced.

Assembly Bill 493 would implement this recommendation by requiring entities responsible for registering sex offenders to ensure that the address submitted by a sex offender does not match the address of a licensed facility for children or a CWS placement.

Recommendation 1.3.c—See pages 24 and 25 of the audit report for information on the related finding.

To help keep children safe, the Legislature should consider enacting a requirement that Social Services make available to law enforcement in an efficient manner the addresses of its children's facilities and foster homes.

Legislative Action: Legislation introduced.

Assembly Bill 493 would implement this recommendation by requiring Social Services to provide the addresses of licensed facilities for children and CWS placements to entities responsible for registering sex offenders.

Recommendation 1.4—See pages 25—27 of the audit report for information on the related finding.

To provide sufficient oversight of county CWS agencies with delegated authority to license foster homes, Social Services should complete comprehensive reviews of these agencies' licensing activities at least once every three years.

Social Services' Action: Partially implemented.

Social Services stated that it completed nine of the 13 county licensing reviews in 2011 that its departmental standards require. Based on information from 2008, 2009, and 2010, these nine reviews represent a dramatic improvement on previous years' performance. Social Services added that the four remaining reviews will be completed in 2012, in addition to the 13 regularly scheduled reviews for 2012.

Recommendation 1.5—See pages 25—27 of the audit report for information on the related finding.

To ensure that its licensees, including state-licensed foster homes, foster family agencies, and group homes, are in compliance with applicable requirements and that children are protected, Social Services should complete on-site reviews at least once every five years as required by state law.

Social Services' Action: Pending.

Social Services stated that historically, it has substantially met the five-year-visit requirement and added that with a new, evidenced-based inspection tool that it is continuing to refine, it will be able to complete facility reviews more frequently than once every five years. Social Services indicated that full implementation of this recommendation will occur by July 2012.

Recommendation 1.6—See page 31 of the audit report for information on the related finding.

To encourage more effective communication from county CWS agencies regarding its licensees, Social Services should specify in regulations what types of situations or allegations the agencies should forward to its licensing division.

Social Services' Action: Pending.

Social Services believes a previous letter to counties specified when a report to its licensing division is necessary. However, Social Services stated that it is drafting a notice to all counties reminding them of reporting requirements and methods.

Recommendation 1.7—See page 31 of the audit report for information on the related finding.

To ensure that county CWS agencies send required reports of abuse and neglect to Justice, Social Services should remind these agencies of applicable requirements and examine the feasibility of using CWS/CMS to track compliance with these statutory provisions.

Social Services' Action: Pending.

Social Services indicated that it will draft a notice to all counties reminding them of the conditions that warrant cross reporting to appropriate law enforcement agencies. Social Services added that it is currently examining the feasibility of using CWS/CMS to automatically document reports to law enforcement agencies.

Recommendation 2.1.a—See pages 35—37 of the audit report for information on the related finding.

To ensure that rates paid to foster family agencies are appropriate, Social Services should analyze the rates and provide reasonable support for each component, especially the 40 percent administrative fee it currently pays these agencies.

Social Services' Action: Pending.

Social Services continues to assert that it will examine this recommendation in conjunction with its existing efforts on congregate care reform. Social Services projected that implementation of this recommendation would not occur until June 2013. Similar to our statement on page 89 of the audit report, we continue to be concerned that Social Services does not fully appreciate that establishing support for foster family agency rates—a portion of which is federally reimbursed—should be a high priority task that should be accomplished regardless of the timeline of any other reform effort.

Recommendation 2.1.b—See pages 35—37 of the audit report for information on the related finding.

Social Services should create and monitor compliance with clear requirements specifying that children placed with foster family agencies must have elevated treatment needs that would require a group home placement if not for the existence of these agencies' programs. Specifically, Social Services should revise its regulations so licensed foster homes have higher priority than foster family agencies for children that do not have identified treatment needs.

Social Services' Action: Pending.

Although Social Services agrees that licensed foster homes are the preferred placement type for children who do not have identified treatment needs, Social Services indicated that it will continue to consider this recommendation in the context of congregate care reform and realignment. We continue to believe, as we state on page 90 of the audit report, that Social Services should expeditiously establish a requirement that county CWS agencies provide adequate justification for placements with foster family agencies and this action should not be dependent on the timeline of some larger reform effort.

Recommendation 2.1.c—See pages 35—37 of the audit report for information on the related finding.

Social Services should require county CWS agencies to file in CWS/CMS a detailed justification for any child placed with a foster family agency.

Social Services' Action: Pending.

Social Services indicated that it would recommend to a CWS/CMS oversight committee that a workgroup be formed to determine the feasibility of standardizing the format and location of placement justifications.

Recommendation 2.1.d—See pages 35—37 of the audit report for information on the related finding.

Social Services should create a mechanism by which it can efficiently check for compliance with the needs-justification requirement.

Social Services' Action: Pending.

Social Services indicated that it will determine the feasibility of developing standards for counties to provide placement needs justifications based on the findings of the workgroup described previously.

Recommendation 2.2—See pages 37—40 of the audit report for information on the related finding.

To achieve greater cooperation from county CWS agencies and to make it possible for some of these agencies to improve their placement practices, Social Services should develop a funding alternative that allows the agencies to retain a portion of state funds they save as a result of reducing their reliance on foster family agencies and only making placements with these agencies when justified by the elevated treatment needs of the child. The agencies would use these funds to support placement activities necessary to achieve the savings (for example, assessment centers and placement resource units).

Social Services' Action: Partially implemented.

Social Services stated that the intent of this recommendation has been essentially implemented by the realignment of CWS funding. Social Services indicated that, under realignment, county CWS agencies now have financial incentives to place children in the lowest cost placement necessary to effectively meet the needs of individual children. However, Social Services added that it will consider the need for any alternative funding incentives when the impact of realignment can be assessed, and it will also assess the need for such incentives as part of its broader congregate care reform effort.

Recommendation 3.1—See pages 50 and 51 of the audit report for information on the related finding.

To encourage continued progress and innovation in keeping children safe, Social Services should add to its current CWS performance metrics a measure of the percentage of investigatory visits (both immediate and 10-day) completed on time that excludes attempted investigatory visits from its calculation of successful outcomes.

Social Services' Action: Pending.

Social Services stated that, to develop a fully informed measure of investigatory visits, it is evaluating policy and regulations associated with these visits. Social Services indicated that when this evaluation is completed, it will have the ability to develop quantitative measures for investigatory visits.

Recommendation 3.2—See pages 52—54 of the audit report for information on the related finding.

Social Services should work with the Alameda County CWS agency to improve its percentage of ongoing case visits completed until it at least meets Social Services' compliance goal of 90 percent.

Social Services' Action: Partially implemented.

Social Services stated that it continues to work with all counties to improve the frequency of case worker visits to bring them above the 90 percent threshold. Social Services asserted that Alameda has made progress this last calendar year on case worker visits, exceeding the 90 percent threshold in several of those months.

Recommendation 3.3—See pages 54—58 of the audit report for information on the related finding.

To determine whether the hold harmless provision has been effective in reducing caseloads and whether it should be revised or rescinded, Social Services should refine and use CWS/CMS to calculate and report county CWS caseloads.

Social Services' Action: No action taken.

- ➔ In its October 2011 response to the audit report, Social Services disagreed that one purpose of the hold harmless provision was to reduce caseloads, but nonetheless agreed that CWS/CMS could and should be used to calculate and report county caseloads. Rather than provide an update on its progress towards creating this measure, Social Services once again asserted its disagreement regarding our description of the purpose of the hold harmless provision.

Recommendation 4.1—See page 61 of the audit report for information on the related finding.

To improve agency practices and increase the safety of children within the CWS system, all county CWS agencies should perform a formal internal review of the services they delivered to each child before he or she died of abuse or neglect and implement any resulting recommendations.

Social Services' Action: Pending.

Social Services stated that it will release, in spring 2012, a letter to all counties encouraging them, as a best practice, to conduct internal reviews of fatalities resulting from abuse or neglect. Additionally, Assembly Bill 1440, which was introduced in January 2012, would require each county CWS agency to conduct a formal death review within 60 calendar days of determining that abuse or neglect led to the death of a child. If enacted, Assembly Bill 1440 would also require counties to submit death review reports to Social Services within 10 days of their completion.

Recommendation 4.2—See pages 69—71 of the audit report for information on the related finding.

To encourage county CWS agencies to conduct formal internal death reviews, Social Services should revise its annual report on child deaths resulting from abuse or neglect to provide information on whether county CWS agencies conducted such a review of child deaths with prior CWS history. To obtain this information, Social Services should revise its regulations to require all county CWS agencies to not only report child deaths resulting from abuse or neglect but to also require a subsequent report indicating whether an internal child death review was completed.

Social Services' Action: Pending.

Social Services disagrees with this recommendation because it does not believe that its annual report on child deaths is an appropriate vehicle for encouraging counties to conduct formal death reviews. It also does not believe it has the statutory authority to require counties to conduct formal death reviews or report completion of these reviews to Social Services. Rather, Social Services points to the letter it is drafting that will encourage counties to conduct formal internal child death reviews. As we indicate on page 90 of the audit report, Social Services' plan for implementing this recommendation fails to create a mechanism to determine whether county CWS agencies are heeding its advice. If enacted, Assembly Bill 1440 would implement our recommendation by requiring county CWS agencies to submit death reviews to Social Services within 10 days of their completion and by requiring Social Services to include in its annual report information on whether county CWS agencies completed formal death reviews.

Recommendation 4.3—See pages 69—71 of the audit report for information on the related finding.

As part of its instructions related to its outcome review process, Social Services should direct county CWS agencies to include completed internal death reviews in the development of their self-assessments and improvement plans.

Social Services' Action: Pending.

Social Services stated that it agrees with this recommendation and is conducting research to determine how the death reviews can be incorporated into county self-assessments and improvement plans.

Recommendation 4.4—See pages 66—69 of the audit report for information on the related finding.

As part of its oversight of the outcome review process, Social Services should follow up on whether Fresno and Sacramento counties implemented recommendations resulting from their respective internal death reviews.

Social Services' Action: Pending.

Social Services stated that it will follow up with Fresno and Sacramento counties to determine whether they have implemented the recommendations resulting from their respective child death reviews. Social Services indicated that it will provide more information in its next update.

Recommendation 4.5—See pages 69—71 of the audit report for information on the related finding.

To ensure that they report all requisite child deaths to Social Services and investigate all child deaths involving abuse or neglect, county CWS agencies should annually reconcile their child death information with other reliable information on child deaths, such as county child death review team data.

Social Services' Action: Pending.

Social Services agrees that county CWS agencies should reconcile their child death information with other reliable information on child deaths, such as county child death review team data, and indicated it is researching best practices in this area. Social Services stated that it plans to issue a notice in spring 2012 to all counties describing best practices in this area.

Recommendation 4.6—See pages 69—71 of the audit report for information on the related finding.

To provide more useful information in its annual report, Social Services should provide child death information broken out by county, not just statewide totals. Further, Social Services should provide more analysis, such as comparing child death information over multiple years and presenting each county's child deaths as a percentage of its total child population.

Social Services' Action: Pending.

Social Services continues to disagree with this recommendation, stating that county-specific information is already available from each county. As we indicate on pages 90 and 91 of the audit report, Social Services' assertion that this information is already available from the 58 counties does little to help state decision makers and stakeholders who may be interested in this information. Social Services has this information by county readily available and could present this information in its annual report. If enacted, Assembly Bill 1440 would require Social Services to enhance its annual report to include the information we suggested.