

California State Auditor

B U R E A U O F S T A T E A U D I T S

Child Protective Services:

Agencies Are Limited in Protecting Children From Abuse by Released Inmates



December 1999
99120

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CALIFORNIA STATE AUDITOR

KURT R. SJOBERG
STATE AUDITOR

MARIANNE P. EVASHENK
CHIEF DEPUTY STATE AUDITOR

December 9, 1999

99120

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the communication and coordination among Child Protective Services (CPS) agencies, parole, and county probation departments regarding the release of convicted child abusers.

The report concludes that CPS agencies do not now receive inmate release information that could serve as an advance warning in protecting children from abuse. Further, legislation that takes effect in January 2000 will not fully bridge this gap in communication between law enforcement and CPS agencies. Moreover, without legislative clarification, CPS agencies may lack the authority to act even if they did receive information concerning the release of a known child abuser.

Respectfully submitted,

KURT R. SJOBERG
State Auditor

CONTENTS

<i>Summary</i>	1
<i>Introduction</i>	5
<i>Audit Results</i>	
Child Protective Services Could Better Prevent Child Abuse if It Had Open Communications With Law Enforcement About Released Inmates and if It Had the Authority to Act	11
Recommendations	22
<i>Responses to the Audit</i>	
County of Fresno, Human Services System	25
Department of Social Services	27
<i>California State Auditor's Comments on the Response From the Department of Social Services</i>	29
California Department of Corrections	31
<i>California State Auditor's Comments on the Response From the California Department of Corrections</i>	35

SUMMARY

Audit Highlights . . .

Our review of the network intended to protect children from abuse at the hands of former offenders revealed that:

- Child Protective Services (CPS) agencies do not receive information about the release of offenders that could serve as an early warning to prevent possible harm to children.*
 - Without legislative clarification, CPS agencies are unsure of their authority to proactively prevent abuse or to share information.*
 - New legislation, Dustin’s Law, has limitations and may not fully achieve what the Legislature intended.*
 - Parole agents and probation officers can benefit from expanded training to recognize and report child abuse.*
-

RESULTS IN BRIEF

In January 1999, the body of Dustin Haaland, a 4-year-old boy allegedly killed by his father, was found in Fresno. The paroled father, who had been in prison for abusing the boy’s older brother, was clearly a threat to his children, yet under current law, the California Department of Corrections (Corrections) was not obligated to notify Child Protective Services (CPS) of his release. However, even if CPS had known about the father’s release, the agency might not have taken preventive action because it lacks clear authority to intervene without new allegations of abuse.

To have been in a position to prevent this tragedy, CPS would have had to have known that the father was being paroled, seen the danger in the father’s return, and had the authority to reopen its case to monitor the family. Such a scenario will only be feasible in the future if there are changes in information exchanges between law enforcement and CPS, and changes in CPS’s ability to act in similar cases.

For CPS to have the opportunity to protect children from abuse by released inmates, law enforcement must allow the agency to inquire about past child abusers and share with CPS information about the release of any adults who pose threats to children. Under “Dustin’s Law,” named for Dustin Haaland, the 4-year-old boy slain in Fresno, parole agents must report to CPS if a parolee convicted of crimes against children contacts the victim or victim’s family, and the parole agency must also notify local law enforcement when such parolees are released.

Dustin’s Law, however, leaves CPS uninformed about these parolees’ release. The agency first learns about released inmates when they break parole by contacting former victims, but by then the parolees may have committed further abuse. This recent legislation also says nothing about child abusers who may have been incarcerated for crimes other than those against children, or about abusers who receive probation. To be most effective, the various agencies must cooperate by identifying all inmates likely to be a risk to children, even if they have not been formally charged with or convicted of crimes against children.

In response to Dustin’s death, Fresno County recently created a task force of staff from CPS, probation, and parole that seeks improved communication between CPS and law enforcement. The task force has been devising cooperative actions that will increase protection for children at risk by conducting more training and increasing communication and home visits.

Even if CPS had known of Dustin’s father’s release, it might not have removed the child from his home or taken other measures to protect the boy. Statutes and regulations governing the agency indicate there must be an allegation of child abuse before CPS takes any action. CPS staff, judges who handle child dependency cases, and staff of the Department of Social Services (Social Services), which oversees CPS, have varying opinions about whether CPS has the authority to intervene in the family of a parolee with a history of child abuse. Without an allegation of new abuse or a court order, the agency’s only recourse may be to convince such families to work voluntarily with CPS staff. Social Services also does not know what impact there will be on CPS since the number of inmates released from state and county incarceration that have abused children in the past is unknown.

To further protect vulnerable children, law enforcement agencies must do more to address the threat of child abuse. These agents and officers are required by law to report child abuse and are in a good position to monitor convicts who may be guilty of this crime. Therefore, parole agents and probation officers need more training to recognize abuse. Parole agents are authorized to order convicted child abusers away from children, yet do not always do so. Corrections must encourage its parole agents to consistently use this authority to improve the safety of vulnerable children.

RECOMMENDATIONS

To more fully bridge the communication gap between CPS agencies and law enforcement, to clarify CPS’s role in working with abuse victims, and to encourage more training for probation officers to effectively identify and report child abuse, the Legislature should:

- Amend Dustin’s Law so that CPS receives offender release information.

- Make clear CPS’s role so it can assess the risk that released offenders pose to children and intervene if that risk is high.
- Determine CPS’s ability to share with members of law enforcement, such as parole agents and probation officers, information concerning child abusers.
- Provide CPS with the authority to offer input in determining the conditions of parole for an offender with a history of child abuse.
- Explore the feasibility of the State’s 58 county probation departments releasing offender information to CPS.
- Use the Board of Corrections, the standard-setting body for probation officer training, as a point of contact to suggest that probation officers receive more training on how to identify and report child abuse.

Once the Legislature acts to amend and clarify the law to ensure that CPS has the information needed to identify paroled offenders who are known to have abused children:

- Corrections should make available to CPS release information for all offenders—regardless of their crimes.
- Social Services, in conjunction with the local CPS agencies, should develop guidelines for CPS on when and how to contact and monitor families where a released offender poses a harm to children.

Irrespective of legislative changes, to enhance the identification and prevention of abuse, Corrections’ Parole and Community Services Division should:

- Always include an order restricting a child abuser’s unsupervised contact with minor children as a parole condition.
- Periodically train parole agents on how to identify and report all forms of child abuse.

AGENCY COMMENTS

Fresno County's CPS and Probation Department, and Tulare County's CPS all concur with our recommendations. Social Services stated that our analysis is thorough but believes that between new legislation and modeling county CPS agencies' actions after Fresno County's task force, significant progress can be made toward protecting children from abuse and neglect. Corrections agrees with our recommendations for more training and prohibiting abusers from contacting their victims. However, Corrections believes caution should be used when determining how much information to share with CPS agencies. ■

INTRODUCTION

BACKGROUND

In 1994, the Haaland family—a father, mother, and two sons—came to the attention of Fresno County law enforcement and Child Protective Services (CPS) when the father severely beat his oldest son. After that incident, both parents were convicted of child abuse. The father was sentenced to five years and four months in prison and the mother was put on probation. While the father was incarcerated, the mother worked with CPS and regained custody of her younger son, Dustin; however, the older son was put up for adoption. Believing the threat of abuse had passed, CPS closed the Haaland family case in September 1996.

However, when the California Department of Corrections (Corrections) paroled the father from prison in June 1998, he returned to Fresno and moved in with the mother and Dustin, even though his action violated his parole. Six months later, Dustin’s body was found in a Fresno vineyard; the boy was beaten to death. Fresno County authorities charged the father with Dustin’s murder and two other felonies, and the mother pled guilty to child endangerment and being an accessory after the fact in Dustin’s death.

Three separate governmental agencies played a role in the lives of this family: CPS, Corrections’ Parole and Community Services Division (parole division), and the Fresno County Probation Department. Each agency has a distinct mission and serves a purpose separate from the others. Currently, inmate release information is not shared by the other two agencies with CPS.

CHILD PROTECTIVE SERVICES

Section 16500 of the Welfare and Institutions Code requires the State, through the Department of Social Services (Social Services) and county welfare departments, to establish and support a public system of child welfare services. A state-mandated, county-implemented program, CPS is a state program designated to protect children from abuse. At the state level, Social Services oversees CPS by setting forth regulations, then checking for

county compliance with them. The Children's Services Branch of Social Services' Children and Family Services Division administers CPS and other child welfare programs.

Although a county is generally allowed to implement and operate its CPS agency as it sees fit, each agency must provide four key services: emergency response, family maintenance, family reunification, and permanent placement.

Emergency response to an allegation is an agency's first step in opening a case of suspected abuse against children. Thus, a report of possible abuse from someone in a community is needed to spur CPS to action. Within each county the law requires schoolteachers, health care professionals, law enforcement officers, and various other officials to report suspected child abuse to CPS. Private citizens may also report to the county agency on its emergency response line. Upon receiving an allegation of abuse, an agency's staff determines if the case requires intervention, and if so, what level of intervention the situation warrants. CPS must respond immediately to high-risk situations and within 10 days to low-risk situations.

After investigating an allegation, CPS may leave a child at home and offer family maintenance services designed to keep a family intact while assisting it in eliminating abusive or neglectful behavior. Examples of such services include counseling, parent training, relief child care, or temporary in-home care. CPS generally takes this approach when parents do not pose a high risk of abusing or neglecting their children but need to strengthen their parenting skills.

However, when it determines that the abuse or neglect is such that a child cannot remain safely at home, CPS will remove the child. If the court agrees with CPS's assessment, the child becomes a dependent of the court. The court will then usually order the parents to participate in services CPS believes will make the home environment safe for the child. These services may include family counseling, drug counseling, emergency shelter care, parent training, and homemaking skills. When parent(s) show they can properly care for their children, CPS reunites the family.

As of January 1998, legally established timelines govern how long parents can receive services. CPS usually cannot offer more than 18 months of services to make the family safe and stable

for children. As a result, concurrent with reunification services, CPS works to identify “an alternate permanent family structure” for children it removes from unsafe homes. For example, if the parents refuse services or do not adequately complete them, CPS will have already identified an alternative such as long-term foster care or adoption, so that the children in these cases can be placed in a permanent family structure if needed.

The agency’s involvement with a child legally ends when the child is no longer a dependent of the court. The courts terminate dependency when the child and parent(s) are reunified or the child is adopted; dependency may also be terminated when a legal guardian is appointed. If the child is placed in long-term foster care, the court retains dependency and CPS or the court continues to periodically monitor the child’s well-being.

CALIFORNIA DEPARTMENT OF CORRECTIONS

Corrections operates and manages 33 prisons throughout the State. With few exceptions, all released inmates are supervised by Corrections’ parole division. Currently, there are about 111,000 parolees statewide, an average of 80 for each parole agent to oversee. The parole division is broken down into four distinct geographical regions, and each region, with the exception of Los Angeles, is made up of multiple counties. The regions are structured like a pyramid, with parole agents at the bottom reporting to unit supervisors who in turn report to district administrators. A district administrator is responsible for several parole units within the region and reports to a regional administrator.

No less than 60 days before an inmate is released, a parole agent assesses the risk the parolee poses to society and develops the parole conditions. There are two types of parole conditions: general and special. General conditions apply to all parolees and includes limitations on travel, prohibition on the access or use of weapons, and a requirement to obey all laws. Special conditions are developed on a case-by-case basis and may require the parolee to seek psychiatric treatment, refrain from contact with certain individuals, abstain from alcohol, and submit to periodic drug testing. The types of parole conditions are based on an inmate’s behavioral history, the nature of the crime committed, and risk assessments made by criminal justice professionals.

A parolee's risk assessment also determines the needed supervision. A parolee may be categorized as requiring a high, moderate, or low degree of control. Parolees needing a high degree of control generally have more frequent contact with their parole agents than parolees requiring low amounts of control. Once paroled, the offender must report to an assigned parole agent on a predetermined basis until his or her term of parole is completed. These contacts can take place at either the parolee's home or at the parole agent's office.

Parolees do not have all of the rights private citizens enjoy. Instead, parolees are subject to the authority of Corrections, and parole violations may result in arrest and reincarceration. However, current law limits parole terms to four years, after which Corrections' jurisdiction automatically terminates unless a parolee is convicted of a new offense.

COUNTY PROBATION

Under county authority, probation departments supervise juveniles and adults on probation while providing various services to the courts. Each county's adult probation department supervises who receives court-ordered probationary supervision. In conjunction with the courts, probation officers establish probation conditions, including the frequency of a probationer reporting to the probation officer, and any ordered drug testing, counseling, or other requirements.

"DUSTIN'S LAW"

As a result of Dustin Haaland's murder in Fresno County, the Legislature introduced Senate Bill 1199, referred to as "Dustin's Law," in an attempt to bridge the communication gap that may have contributed to the boy's tragic death. In October 1999, the governor signed the bill, which becomes law on January 1, 2000. This legislation increases the level of communication among the State, local law enforcement, and county CPS agencies concerning convicted child abusers. The three provisions of Dustin's Law relevant to child abuse are discussed on pages 13 and 14.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee requested the Bureau of State Audits to evaluate law enforcement's process for sharing information about the release of convicted child abusers. Specifically, we were to assess whether any mechanism exists for state and county agencies to communicate with one another regarding paroled child abusers and to review the statutory authority of CPS, the parole agencies, and county probation departments regarding such cases. In completing our evaluation, we were directed to review the communication links among the CPS agencies, parole agencies, and probation departments in two adjoining counties, Fresno and Tulare.

To fully understand the child protection system, parole operations, and probation process, we researched the applicable laws, regulations, and other relevant information. We also reviewed policies and procedures to understand the environment in which all three entities operate. We identified the roles and responsibilities of various state and local agencies that are involved with CPS or that oversee and monitor convicted child abusers. In addition, we interviewed staff at Corrections and Social Services, the Central District Parole Office in Fresno County, and also at the probation departments and CPS agencies in Fresno and Tulare counties.

We also assessed the information currently available to parole, probation, and CPS agencies and any restrictions to the sharing of information among them. In addition, to better understand the parole process, we reviewed the case files of convicted child abusers in the Central District Parole Office. Finally, we asked judges who adjudicate child dependency cases in Los Angeles and Sacramento counties about the courts' and CPS's authority over families where CPS has knowledge that child abuse has taken place. ■

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AUDIT RESULTS

Child Protective Services Could Better Prevent Child Abuse if It Had Open Communications With Law Enforcement About Released Inmates and if It Had the Authority to Act

SUMMARY

The courts, Child Protective Services (CPS) agencies, and the Department of Social Services (Social Services) staff all agree that released offenders who abused their children in the past may do so again. Also, among the three agencies, CPS is the only statewide program charged specifically with providing direct services to assure children’s safety and well-being. Nevertheless, current laws do not include CPS agencies in law enforcement’s exchange of information about the release of convicted child abusers. Moreover, even if these agencies did receive the information, the law is unclear on whether they have the authority to act.

The recent slaying of Dustin Haaland, allegedly by his paroled father, dramatically illustrates how an uninformed CPS agency cannot protect children from released offenders with a history of abuse. In this case, the paroled father was well known to CPS for abusing his older son in past years, but the agency had closed its case on the family when Dustin was reunited with his mother and was not alerted to the father’s release from state prison several years later.

New legislation, “Dustin’s Law,” seeks to avoid serial abuse by paroled child abusers by bridging the communication gap between CPS and law enforcement agencies. Dustin’s Law, however, does not require law enforcement to notify CPS of the release of child abusers until the parolees violate their parole conditions by contacting the children they formerly abused. So, even after the law takes effect, the agency may not reach a family in time to prevent further maltreatment. Also, Dustin’s Law says nothing about paroled inmates who were convicted of other offenses such as substance abuse or domestic violence, yet

research indicates that many of these offenders may have also committed child abuse. Finally, the new legislation does not address child abusers on probation.

In response to Dustin’s death, Fresno County created a task force of CPS, parole, and probation staff. This group has taken several proactive steps to prevent a similar tragedy from occurring in the future. For example, parole and probation staff notify CPS when a convicted child abuser is released, and members of the task force are making home visits to high-risk families.

However, if CPS had access to information about the release of former child abusers, it still might be handicapped in its ability to protect children from suffering additional harm. The law is unclear on whether CPS has the authority to reopen cases and intervene to prevent a recurrence of abuse without a referral alleging current abuse or neglect. The judges, CPS agency staff, and Social Services staff we interviewed had varying perspectives about the agency’s authority to intervene in these circumstances.

Finally, local law enforcement can work on its own to improve a child’s chances of escaping further abuse. Parole agencies and probation departments both need to expand the training given to agents and officers to recognize and prevent child abuse. In addition, parole agents must do a better job of restricting child abusers’ contact with their former victims.

CPS DOES NOT RECEIVE INMATE RELEASE DATA

The penal code allows, and in some cases *requires*, California Department of Corrections (Corrections) to share inmate release information with local law enforcement agencies. However, under current law, CPS agencies do not receive inmate release information. As a result, CPS agencies, unlike local law enforcement, are unaware of an inmate’s release and therefore cannot anticipate possible abuse by parolees or help protect the children who are their targets.

Penal Code Section 3058.5 allows the California Department of Corrections (Corrections) to share inmate release information when local law enforcement requests it. This information consists of a periodic listing of all parolees irrespective of their offenses and the counties where they will be paroled. In addition, Penal Code Sections 290 and 3058.6 *require*

Although the penal code allows, and may require, sharing of inmate release information with local law enforcement, CPS agencies are not among those notified.

Corrections to notify law enforcement agencies of the pending release of violent felons, sex offenders, and individuals convicted of certain child abuse crimes. Thus, Corrections assists local law enforcement agencies, which can use this information to anticipate possible criminal behavior by parolees against citizens. However, because CPS does not receive inmate release information, it has no advance warning that an offender with a history of child abuse is reentering the community. This information gap puts the agency at a disadvantage in safeguarding vulnerable children from abuse.

Dustin's Law is narrowly targeted and may not be as effective at preventing child abuse as the Legislature intended.

CPS, parole, and probation need to start an information-sharing process that will allow CPS agencies to compare key information in their files with that of the parole division and probation department to identify soon-to-be released inmates who may pose a threat to children. The agencies also need to work with parole agents and probation officers to set the conditions of parole or probation for offenders whom CPS identifies from past behavior as a potential danger to children.

NEW LEGISLATION DOES NOT FULLY BRIDGE THE COMMUNICATION GAP BETWEEN CPS AND LAW ENFORCEMENT

Following Dustin Haaland's death, Dustin's Law was passed and takes effect in January 2000. This legislation attempts to close the communication gap between parole and CPS regarding paroled child abusers. However, information the new law will provide CPS is limited and may not result in the level of protection for children originally envisioned. For example, Dustin's Law requires parole officers to inform CPS agencies only when certain child abuse and sex offenders violate their parole, not when they are released. In addition, the new law does not address child abusers convicted of other offenses. Finally, CPS will receive no information on child abusers who receive probation. Because of these limitations, the legislative intent to prevent convicted child abusers from committing further abuse may not be as effective as it could be.

Dustin’s Law contains the following provisions relating to child abuse:

- The parole division must report to the appropriate child protective agency when a paroled child abuser or sex offender violates a condition of parole restricting contact with the victim or the victim’s family.
- The parole division must give parole agents an annual written summary of this duty to report parole violations and of their duty to report suspected child abuse and neglect to CPS agencies.
- When inmates convicted of specified child abuse-related offenses are paroled, the parole division must tell local law enforcement both in the community where the offenders were convicted and in the community where they are released.

Under Dustin’s Law, CPS May Learn Too Late About Paroled Child Abusers

Dustin’s Law mandates that parole agents alert CPS to the presence of a paroled child abuser, but only after the offender violates parole by contacting a former victim—severely limiting the agency’s opportunity to effectively intervene. For instance, a condition of parole might be that an offender avoids contact with anyone under the age of 18—yet the offender violates parole and sees a child he or she formerly maltreated. If the parole agent were to receive a tip about this violation from a relative, by the time either the parole agent or CPS could take action, the child might already have suffered further harm. It is clear by this example that CPS needs parole information earlier—ideally shortly before the inmate is released—so the agency can assess the risk for further abuse and immediately contact the family.

To effectively act, CPS needs parole information much sooner than Dustin’s Law provides.

Dustin’s Law Does Not Add CPS to the Communication Loop Between Parole and Local Law Enforcement

Although Dustin’s Law requires the parole division to notify local law enforcement when a convicted child abuser is released, it omits the local CPS agency—the agency at the local level charged with assuring the well-being of children. Parole and probation are legally structured to supervise offenders, most often adult offenders, so neither of these agencies was looking

out for Dustin. On the other hand, CPS focuses primarily on children—making it a key player in any situation designed to protect children from paroled child abusers. Because Dustin’s Law does not include CPS among agencies receiving release information, the notification process intended to protect children from abuse is incomplete, leaving them at risk for further harm by parolees.

Offenders Convicted of Crimes Other Than Child Abuse Are Also a Threat to Children

By notifying CPS only when a released child abuser violates parole, Dustin’s Law overlooks many offenders who may have also abused children. Research shows a high correlation between substance abuse and child abuse, as well as between wife battering and child abuse. Recent studies estimate that 50 percent to 80 percent of all substantiated child abuse cases involve some degree of substance abuse. Our review of the case files at the Central District Parole Office in Fresno for 10 parolees convicted of child abuse or sexual abuse of children revealed that 8 were required to participate in drug testing as a condition of parole, further supporting the degree to which substance abuse and child abuse are related. In addition, one study drawn from a national survey of over 6,000 families found that 50 percent of men who abuse their wives also abuse their children. This study also found that the more serious the abuse against women, the greater the likelihood that children will also suffer harm. Given the established connection between drug abuse, domestic violence, and child maltreatment, it is reasonable to assume that a number of child abusers were convicted of drug offenses and/or domestic battery, rather than of child abuse. The exact percentage of child abusers within the 35,156 drug offenders and domestic batterers currently on parole from California prisons is unknown. But to exclude these categories from a notification law potentially limits the effectiveness of the new law in identifying offenders who continue to pose a risk to children.

Research has shown that drug abuse and domestic violence are closely linked to child abuse.

A Significant Number of Child Abusers Are Housed in County Jails or are on Probation

In mandating reporting on offenders released only from state prisons, Dustin’s Law overlooks child abusers and sexual abusers of children who are incarcerated or receive probation at the local level. Some child abusers spend no time in state prison, but receive sentences mandating jail time, probation, or a

combination of the two. For example, for her role in abusing her oldest son, Dustin Haaland's mother spent 33 days in county jail before being released on probation. The number of abusers that receive disciplinary action at the local level is significant. For instance, Fresno County's probation statistics, as of September 1999, indicate that 263 offenders convicted of felony child abuse or sexual abuse of minors were on probation.

FRESNO COUNTY AGENCIES HAVE INDEPENDENTLY TAKEN STEPS TO INCREASE COMMUNICATION AND COORDINATION

In the wake of the Haaland case and in anticipation of Dustin's Law, Fresno County has taken action to prevent similar incidents in the future. Specifically, CPS, the probation department, and the Central District Parole Office formed a multiagency task force to better communicate about the release and monitoring of convicted child abusers. The task force has taken some preliminary steps including setting up CPS training for law enforcement, sharing information, and forming a subcommittee to make visits to high-risk families.

As a result of the task force, CPS started training the probation department, parole district, and other Fresno County law enforcement agencies in November 1999. The training focuses on helping law enforcement officers identify instances of abuse or neglect while working in the field and on understanding CPS's protocol for responding to abusive situations. The task force hopes this training will increase law enforcement officers' awareness of potential instances of child abuse.

Also, Fresno County probation and the Central District Parole Office both recently began calling CPS to alert it of the release of a convicted child abuser. The task force also designated an informal subcommittee comprised of one representative each from probation, parole, and CPS to meet and share information. As of October 1999, the task force had met three times and the subcommittee had met once. The subcommittee met to identify children in at-risk situations that require home visits—defined as children in homes where both parents have been convicted of child abuse and are on either parole or probation. The task force has thus far begun making home visits to 11 identified high-risk families. To date, the visits resulted in CPS removing one child from a dangerous situation.

The county CPS, probation department, and parole office formed a task force to better share information and monitor convicted child abusers.

CPS'S AUTHORITY TO ACT ON INMATE RELEASE DATA IS UNCLEAR

As CPS agencies are in the best position to know which parents pose a threat to their children because of past abusive behaviors, it is logical for law enforcement to let the agencies know about released inmates who may endanger children. Unfortunately, current law is unclear as to whether CPS agencies could act even when informed about released inmates CPS knew had histories of child abuse. Laws and regulations governing CPS agencies indicate they are designed to react to child abuse or neglect, not anticipate it by opening cases when they perceive a potential risk. To test the feasibility of CPS and law enforcement sharing information to identify abusive parents and working together to prevent abuse, we proposed the idea to two judges who hear child dependency cases, CPS agency staff in Fresno and Tulare counties, and Social Services staff. These groups differ on how much authority CPS has in working with families where a parent released from prison may be a risk to their children.

Existing laws and regulations define CPS's role as a reactive one—in other words, CPS responds to alleged incidences of abuse and neglect that have already taken place. The Welfare and Institutions Code, Section 16500 et seq., and the Social Services' Manual of Policies and Procedures, Child Welfare Services, outline the role and responsibilities of CPS agencies. Generally, an agency's role and responsibilities include implementing an emergency response system, providing services to families to prevent or remedy neglect and abuse, and developing alternate permanent family structures for children who cannot safely remain with their natural parents. The Welfare and Institutions Code, Section 16501, implicitly establishes that there must be an allegation of child abuse before a response is warranted or these services are required. Section 16504 establishes when a child is eligible for child protective services “. . . any child reported to the county . . . to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and evaluation of risk services.” Also, the regulations developed by Social Services assume that the emergency response service and other services are provided in response to a referral to CPS.

Existing laws define CPS's role as a reactive one responding only after harm takes place.

To have avoided Dustin Haaland's slaying, the CPS agency would have needed more than the information about the father's parole—it would have needed the authority to reopen its case and monitor the family. We asked juvenile court judges in Los Angeles and Sacramento counties whether CPS has any

authority to intervene when released inmates are known to the agency for having exhibited past abusive behavior toward a child. According to the Los Angeles judge, the agency's primary role is to assess a child's risk for neglect and abuse and respond accordingly to that risk. For that reason, the judge believes that if CPS has knowledge of an inmate's release and thinks the release presents a substantial risk of harm to a child, the agency has sufficient cause to reopen a case and act accordingly. This judge's perception in such cases is that CPS need not wait for an allegation that abuse had occurred, but can take actions to prevent such abuse when a substantial risk of harm is present.

One judge believes that if CPS knows that a released inmate could pose a child abuse threat, CPS has cause to open a case.

The Sacramento County juvenile court judge also believes CPS could contact a family upon the parolee's release. However, this judge said that without court jurisdiction or further evidence of abuse, if the family did not want to voluntarily cooperate with the agency, then CPS would have to cease intervention. Alternatively, the judge suggested that in families where one parent has been incarcerated and is known to CPS for past child maltreatment, the court could retain the child as a dependent until the parent is released and the agency could then assess the risk for continued abuse. However, this judge thought the Welfare and Institutions Code may limit the courts in applying this authority. In any event, the judge was certain that CPS has the authority to give law enforcement the names of parents who pose a risk to children, so the agency could be notified when those parents are released from custody. Although other officials we spoke with believed that sharing such information violated CPS's confidentiality requirements, this judge stated that confidentiality applies only to the children, not their parents.

To get their perspective, we asked both the Fresno and Tulare CPS agencies whether they can reopen a case when former abusers are released. The Fresno CPS agreed that inmates known to the agency for past abusive behavior may be a risk to children upon release. The Fresno CPS believes it would be valuable to know when inmates fitting this profile are incarcerated and when they are released, so the agency could assess a child's risk for further abuse and take appropriate actions. Generally, the Fresno CPS thinks the court would support such intervention. However, the Fresno CPS was less certain the courts would support any CPS action when an inmate's history was one of minor forms of neglecting, rather than physically or sexually abusing their children. In that case, the courts might say the risk was not substantial enough to warrant contacting the family and monitoring the well-being of the children upon

the inmate's release. Neglecting a child by not providing adequate housing, supervision, food, or clothing is considered child abuse; however, unlike physical abuse, neglect might result in a lower-risk assessment for a parolee. Finally, Fresno CPS did not believe that existing confidentiality laws prohibit it from sharing certain information about abusive parents with law enforcement.

One CPS agency believes it can only respond to allegations of child abuse, it cannot legally act to prevent it.

The Tulare CPS, on the other hand, maintains that CPS is a reactive system that cannot act without first receiving a report of suspected abuse or neglect. The assistant agency director stated that without such an allegation, CPS would be monitoring these families with no defined end-point to its involvement. Furthermore, he stated that in cases like these, if the family refuses to work with CPS, the agency would have no other recourse than to cease its attempts to intervene. The assistant agency director also expressed a concern about confidentiality, since the nature of CPS's work generally prohibits sharing case information. He thinks the amount of information CPS can share with outside agencies, such as parole and probation, limits its ability to communicate and coordinate. However, the Tulare County counsel stated that CPS could give law enforcement the names of incarcerated parents to ensure the agency is notified when those parents are released from custody.

We also spoke with Social Services staff regarding the ability of CPS agencies to respond to inmate release information and the confidentiality of CPS records. Social Services agreed that an agency's role is to assess children's risk for abuse and neglect. It supports local CPS agencies, upon receiving data from Corrections, reviewing their open cases and case/referral histories to determine if the parolee had prior involvement with CPS. If so, an agency could treat the inmate-release notification as a new referral and assess the risk to the child. However, Social Services could not anticipate the resulting additional cost and the local agencies' added caseload because no one knows how many formerly abusive parents are incarcerated and due for release or how much work it would take to evaluate the children's safety in these cases. Additionally, Social Services believes confidentiality of CPS records is a large, complex issue that should be studied. Because of its interpretation of the laws regarding confidentiality, Social Services believes that CPS is prohibited from automatically exchanging information with Corrections.

LOCAL LAW ENFORCEMENT CAN TAKE ADDITIONAL STEPS TO HELP PREVENT FURTHER CHILD ABUSE

Beyond sharing information with CPS, parole and probation can each do more internally to reduce children's risk of abuse by released inmates. For example, both parole and probation have a mandate to report suspected child abuse, but offer their staffs only limited training on how to recognize it. In addition, our case review at the Central District Parole Office indicates that parole agents do not always ensure that convicted child abusers are restricted from contacting their former victims. As a result, offenders may be living with past victims and resuming abuse while on parole.

Parole and Probation Provide Limited Child Abuse Training

Parole agents and probation officers are required by law to report suspected child abuse and neglect to CPS. To prepare for this duty, both parole agents and probation officers must be trained to identify and report child abuse. Child abuse can take many forms, including neglecting a child's basic need for food and shelter, constant verbal abuse, sexual abuse, and physical abuse. Because parole agents and probation officers might come into contact with abused children in the course of their work, it is critical that they be able to recognize all the signs of abuse, judge its severity, and know how to report it. However, the training offered to both parole agents and probation officers is too limited, usually consisting of one short training session.

Currently, parole agents going through the parole academy receive a one-time four-hour training session on the various forms of child abuse and how to report it. Although the Central District Parole Office will soon provide more training on child abuse, no laws or departmental policies currently require parole agents to take other training beyond the academy class. A single four-hour training session in child abuse reporting does not seem sufficient for parole agents to learn how to recognize the various forms of child abuse and to know when and how to report it. Also, a one-time academy training session for new agents should be repeated periodically so that more veteran agents receive refresher training on this important subject. Because the central district administrator in Fresno County agrees that a one-time training class is insufficient, the district is taking steps to provide its parole agents with more training in recognizing and reporting child abuse. In addition, Corrections

Parole agents and probation officers could benefit from expanded training to identify and report child abuse.

agrees that the one-time training class is not sufficient. It plans to develop a policy that provides additional periodic training in identifying and reporting child abuse.

Similarly, probation could give its officers more training on identifying and reporting child abuse. In Fresno County, for example, the only training specific to child abuse that all probation officers receive occurs during the initial core training on probation officers' duties. The probation officers' responsibilities to identify and report suspected child abuse are taught in one five-hour course called "Indicators of Family Violence," but the course also covers elder and spousal abuse. Although the Fresno probation department offers its probation officers an additional eight-hour training class focusing on child abuse, we believe that in addition to their initial training, mandatory periodic training could help probation officers to more readily and accurately identify child abuse. The department's director of adult probation concurs with our conclusion that additional training would better enable probation officers to spot potentially abusive situations.

Parole Agents Do Not Always Ensure That Convicted Child Abusers Are Restricted From Contacting Their Victims

Parole agents sometimes fail to prohibit convicted child abusers from having any contact with their former victims. At the Central District Parole Office, we reviewed 10 case files for people convicted of child abuse or sexual crimes involving children. The central district administrator stated that in these types of cases the parole division's general practice is to impose a special condition of prohibiting the parolee from having any unsupervised contact with former victims. However, 3 of the 10 case files we reviewed neither contained this restriction nor any documentation explaining why such a restriction had been waived. As a result, the parole district in Fresno is less likely to ensure that certain convicted child abusers under its supervision are not inflicting further abuse on children. The central district administrator agreed with our findings. He indicated that subsequent to our review he met with supervisors to ensure that the parole agents impose a special condition of parole prohibiting convicted child abusers from having unsupervised contact with former victims.

RECOMMENDATIONS

Because CPS agencies do not currently receive inmate release information and because Dustin's Law will not fully bridge the communication gap between the agencies and law enforcement, the Legislature should:

- Amend Dustin's Law so that CPS agencies receive information regarding incarcerated offenders due for release, irrespective of the offense for which they were convicted.

It is unclear whether CPS has the authority to act under current law if given notice of an offender's parole. Therefore, the Legislature should:

- Make clear CPS's role to allow it to assess the risk that released offenders pose to children, provide it with the authority to offer input in determining the conditions of parole, and to intervene in high-risk situations.
- Make clear CPS's ability to share information concerning child abusers with members of law enforcement such as parole agents and probation officers.

Finally, adults on probation or incarcerated in county facilities may also harm children, and Dustin's Law is silent regarding these offenders. Probation officers therefore play an important role in identifying and reporting suspected abuse. Because of this, the Legislature should:

- Explore the feasibility of requiring the 58 counties' probation departments to inform CPS concerning offenders soon to be released from county jail or who receive probation and consider CPS agencies' input when setting conditions for probation.
- Use the Board of Corrections, the standard setting body for probation officer training, as a point of contact to suggest that training to effectively identify and report child abuse be expanded to include periodic refresher training.

Once the Legislature acts to amend and clarify the law to ensure that CPS has the information needed to identify soon-to-be paroled offenders, regardless of their crime, who are known to have abused children:

- The Corrections' Parole and Community Services Division should make available to CPS offender-release information and seek input from CPS when developing parole conditions for offenders known to CPS to have abused children in the past.
- Social Services, in conjunction with local CPS agencies, should develop guidelines for advising local CPS agencies when and how to contact and monitor families where a released offender poses a renewed threat to the children.

To enhance the identification and prevention of further abuse without the need of legislative action, the Corrections' Parole and Community Services Division should:

- Provide its staff periodic training focused on identifying and reporting all forms of child abuse.
- Ensure that its parole agents always incorporate into parole conditions an order restricting a child abuser's unsupervised contact with minor children.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG
State Auditor

Date: December 9, 1999

Staff: Doug Cordiner, Audit Principal
Sharon Smagala, CPA
Andrew Roth
Hitomi Sekine, CPA

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Agency's comments provided as text only.

Human Services System
1221 Fulton Mall
Fresno, California 93775

November 22, 1999

Kurt R. Sjoberg
State Auditor
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

The purpose of this letter is to respond to the report entitled *Child Protective Services: Agencies are Limited in Their Ability to Protect Children from Abuse by Released Inmates*. This report contains a comprehensive systemic overview of Parole, Probation and Child Protective Services; their purpose and systemic gaps. The Human Services System, Department of Children and Family Services concurs with the recommendations contained in this report and views it as a springboard for strengthening these systems through the provision of additional protection for vulnerable children.

As the report notes, Fresno County has established a task force of Child Protective Services, Parole and Probation staff. The focus of this task group has been the establishment of procedures to alert CPS when a convicted child abuser is being released so that a tragedy similar to Dustin Haaland does not occur. The Department of Children and Family Services has concurrently implemented a Multi-Disciplinary Round Table (MDRT) model for serving at risk families. The MDRT consists of professionals who work in a collaborative and coordinated manner to address child maltreatment. The team includes a Licensed Mental Health Clinician, Public Health Nurse, Substance Abuse Specialist, Probation Officer and Social Worker. Other consultants, such as law enforcement are called to participate in the MDRT as needed. This team works alongside the family to develop written case plans, which is agreed upon at the meeting and subsequently included into a court report or case plan. This approach will ensure that the community does a better job of protecting abused children.

While this department embraces each recommendation, it recognizes that additional service levels will be required at the County level if these recommendations are adopted and incorporated into child welfare mandates. The department would like to take this opportunity to emphasize that the underpinning of any successful recommendation is that it is accompanied by resources that match its intent.

Fresno County was happy to be a participant in looking at better ways to protect abused children.

Sincerely,

(Signed by: David Dent and Salvador Montana)

David Dent, Director Human Services System

Salvador Montana, Director Department of Children and Family Services

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Agency's comments provided as text only.

Department of Social Services
744 P Street
Sacramento, California 95814

November 22, 1999

Kurt R. Sjoberg
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

Thank you for allowing us to comment on the draft of your audit report entitled "Child Protective Services: Agencies Are Limited in Their Ability to Protect Children From Abuse by Released Inmates." We have reviewed this draft and believe that the auditor provided a thorough analysis of system issues.

We applaud your recognition of Fresno County's actions to improve their system of preventing neglect and abuse of its children through creative and collaborative efforts. We would like to consider Fresno County's actions as best practice for the rest of the 57 counties. The CDSS will look for opportunities to enhance communication among the counties about Fresno's efforts.

Governor Davis signed SB 1199 and we are encouraged that it will result in increased protection of children from neglect and abuse. When SB 1199 is implemented, we may find that the new law, in combination with Fresno County's action as a model, will lead to significant progress toward what we all agree is important—the protection of children from abuse and neglect.

①*

In the event legislation is proposed beyond existing law and Fresno County's best practices, it would be important to analyze the impact on workload so that counties have adequate resources to act.

Should you have any questions regarding our response, please contact Del Sayles-Owen, Acting Deputy Director, Children and Family Services Division at (916) 657-2614.

Sincerely,

(Signed by: Rita Saenz)

RITA SAENZ
Director

*California State Auditor's comments appear on page 29.

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COMMENTS

California State Auditor's Comments on the Response From the Department of Social Services

- ① **F**or the reasons discussed on pages 14 and 15, the information Dustin's Law will provide to Child Protective Services is limited and may occur too late to provide the level of child protection envisioned. Additionally, while Fresno's task force has taken several positive steps to better protect children, it only considers cases in which both parents have been convicted of child abuse, a much smaller population than the one we believe poses a threat to children.

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Agency's comments provided as text only.

Department of Corrections

Date: November 22, 1999

To: Kurt R. Sjoberg
State Auditor
Bureau of State Audits

Subject: **RESPONSE TO BUREAU OF STATE AUDITS' REPORT ON "CHILD PROTECTIVE SERVICES: AGENCIES ARE LIMITED IN THEIR ABILITY TO PROTECT CHILDREN FROM ABUSE BY RELEASED INMATES"**

I am responding to the issues identified in the recent Bureau of State Audits' report on child protective services as they relate to the role of the California Department of Corrections (CDC). The following addresses the specific areas of concern:

The CDC Should Make Available to Child Protective Services Release Information for All Offenders - Regardless of Their Crime

Audit findings revealed that: (1) the Penal Code allows, and in some cases requires, CDC to share inmate release information with local law enforcement agencies; (2) under current law, because Child Protective Services (CPS) is not among those that receive the release information, there is no advance warning that an offender with a history of child abuse is re-entering the community; (3) this information gap puts CPS at a disadvantage in safeguarding vulnerable children; and (4) there is a need for legislation that would allow CPS to receive information regarding incarcerated offenders due to be released.

We agree with the auditors' findings regarding current law requirements concerning notification. Under current law, CDC is prohibited from sharing certain information with CPS. Senate Bill (SB) 1199 (Costa) was signed by the Governor on October 10, 1999. This bill addresses some information sharing/intervention measures regarding child abusers and provides some improvements to the notification process. The new law, effective January 1, 2000, expands the current CDC requirement to provide notice to local law enforcement agencies regarding the release of a violent offender to include notification on the release of child abusers. Further, SB 1199 requires that CDC provide notifications to local law enforcement in the inmate's county of commitment as well as the county of release. Additionally, CDC must notify the appropriate child protective agency if a child abuse offender has violated a condition of parole by contacting the victim or the victim's family. The CDC is in the process of implementing SB 1199.

The CDC will be formulating a multi-agency task force in each parole region that will improve communication with CPS, the probation department and the Parole and Community Services Division (P&CSD). It is anticipated that each task force will be operative by March 2000.

- ①* The report makes the recommendation that CPS be notified of all “information regarding incarcerated offenders due to be released, irrespective of the offense they were convicted of.” The CDC releases approximately 150,000 inmates each year. The majority of the parolees have no record of crimes against children. Caution should be exercised when determining the extent of information to be provided to CPS under any future legislation. The CPS could be inundated with unnecessary information, thereby defeating the intended purpose of the notification.

Additional Periodic Training Should be Provided to Parole Agents Regarding Child Abuse Identification and Reporting

Current CDC policy requires a one time, four-hour block of training for parole agents concerning their mandate to report suspected child abuse. In 1997, the training was conducted for existing parole agents. Parole agents hired subsequent to the initial training receive the four-hour training at the parole agent academy.

We agree that additional periodic training is essential to ensure each parole agent receives adequate and up to date information regarding child abuse identification and reporting. The divisional training staff will update the parole agent academy curriculum for child abuse reporting and identification. The CDC is also working to develop a method for delivering refresher training to parole agents within existing resources. It is anticipated that training procedures and a schedule for the refresher training will be completed by March 2000.

A Special Condition of Parole of No Contact with the Victim Is Not Always Imposed for Parolees Convicted of Child Abuse Offenses

It is the general policy of CDC to impose special conditions of parole for parolees convicted of child abuse offenses. To ensure that such conditions are being imposed appropriately, parole field staff will conduct a 100 percent review of current parole cases meeting the offense criteria. The CDC will initiate the 100 percent review during the first week in December 1999. It is anticipated that all applicable files will be reviewed by the first part of January 2000. Any cases that do not have the appropriate special conditions will be corrected. Prospectively, parole agents will ensure that special conditions are imposed during pre-parole processing which occurs between 60 and 90 days prior to release.

*California State Auditor's comments appear on page 35.

Summary

We are taking immediate steps to ensure that CDC is in compliance with current policy and procedures. We have developed an implementation plan for SB 1199 that will be issued to staff by the first week in December 1999. We will review all parole cases that meet the offense criteria for child abuse offenders and ensure that special conditions of parole are appropriately incorporated. Plans for parole agent training and establishing the multi-agency task force will be implemented by March 2000.

I appreciate the opportunity to respond to the issues identified by your audit team. I would also like to commend your staff for the professional manner in which they conducted the audit.

(Signed by: Teresa Rocha for:)

C.A. TERHUNE
Director
Department of Corrections

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COMMENTS

California State Auditor's Comments on the Response From the California Department of Corrections

- ① **A**s we discuss on page 15, there are doubtless many offenders convicted of other crimes that pose a risk to children upon their release. Our recommendation, if implemented, would allow Child Protective Services agencies in each county to match the child abusers in their files against the offenders being released in their county. Using the California Department of Corrections' estimate for annual releases, this would average less than 2,600 parolees per county per year.

cc: Members of the Legislature
Office of the Lieutenant Governor
Attorney General
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps