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Implementation of State Auditor's Recommendations

Audits Released in January 2011 Through December 2012

Special Report to
Senate Budget and Fiscal Review Subcommittee #3—Health and Human Services

SPECIAL REPORT

February 2013 Report 2013-406 S3

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Elaine M. Howle
State Auditor
Doug Cordiner
Chief Deputy

CALIFORNIA STATE AUDITOR
Bureau of State Audits

555 Capitol Mall, Suite 300 Sacramento, CA 95814 916.445.0255 916.327.0019 fax www.bsa.ca.gov

February 28, 2013 2013-406 S3

The Honorable William Monning, Chair
Senate Budget and Fiscal Review Subcommittee No. 3
State Capitol
Sacramento, California 95814

Dear Senator Monning:

The California State Auditor presents this special report for the Senate Budget and Fiscal Review Subcommittee No. 3—Health and Human Services. The report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. Additionally, the report includes the major findings and recommendations, along with the corrective actions entities reportedly have taken to implement our recommendations. To facilitate the use of the report, we have included a table that summarizes the status of each entity's implementation efforts based on its most recent response.

This information is also available in a special report that is organized by policy areas that summarizes all audits and investigations we issued from January 2011 through December 2012. The special policy area report includes a table that identifies monetary values that entities could realize if they implemented our recommendations, and is available on our Web site at www.auditor.ca.gov.

Our audit efforts bring the greatest returns when the entity acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action entities report they have taken. Further, we believe the State's budget process is a good opportunity for the Legislature to explore these issues and, to the extent necessary, reinforce the need for corrective action.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

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Introduction

This report summarizes the major recommendations from audit and investigative reports we issued from January 2011 through December 2012 that relate to agencies and department under the purview of the Senate Budget and Fiscal Review Subcommittee No. 3—Health and Human Services. The purpose of this report is to identify what actions, if any, these entities have taken in response to our findings and recommendations. We have placed this symbol ➲ in the margin of the entity's action to identify areas of concern or issues that we believe have not been adequately addressed.

For this report we have relied upon periodic written responses prepared by entities to determine whether corrective action has been taken. The California State Auditor's (state auditor) policy requests that the entity provide a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow up, state law requires the entities to provide updates on their implementation of audit recommendations. The state auditor requests these updates at 60 days, six months, and one year after the public release of the audit report. However, we may request an entity to provide a response beyond on year or we may initiate a follow-up audit if deemed necessary.

We report all instances of substantiated improper governmental activities resulting from our investigative activities to the cognizant state entity for corrective action. These entities are required to report the status of their corrective actions every 30 days until all such actions are complete.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the entities. All corrective actions noted in this report were generally based on responses received by our office as of December 31, 2012. The table below summarizes the status of an entity's implementation of our recommendations[1] based on its most recent response received from each one. Because an audit or investigation may cross over several departments, it may be accounted for on this table more than one time. For instance, the Child Health and Safety Fund/Children's Trust Fund report is listed under both the Department of Public Health and the Department of Social Services.

Table
Recommendation Status Summary

	FOLLOW-UP RESPONSE*				STATUS OF RECOMMENDATION				
AUDIT REPORT	INITIAL RESPONSE	60- DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	PAGE NUMBERS
Department of Health Care Services									
Medi-Cal Managed Care Program Report 2011-104				●	2		2		3
Intellectual Property Report 2011-106				●				1	7
Department of Managed Health Care									
Medi-Cal Managed Care Program Report 2011-104				●	3				3
Department of Mental Health†									
Sex Offender Commitment Program Report 2010-116				●	1	2	1	1	11

continued on next page . . .

[1] This table does not include recommendations directed to the Legislature; however, we discuss the status of legislative recommendations in the body of this report.

AUDIT REPORT	FOLLOW-UP RESPONSE*				STATUS OF RECOMMENDATION				PAGE NUMBERS
	INITIAL RESPONSE	60- DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
Department of Public Health									
Child Health and Safety Fund/Children's Trust Fund Report 2012-105	●						8		17
Department of Social Services									
Foster Family Home and Small Family Home Insurance Fund Report 2010-121				●	4		3		25
Department of Social Services									
Child Welfare Services Report 2011-101.1				●	9	2	1	8	29
Child Health and Safety Fund / Children's Trust Fund Report 2012-105	●						10	4	17

INVESTIGATIVE REPORT	DATE OF LAST RESPONSE								
Department of Mental Health†									
Waste of State Funds, Misuse of State Resources Investigations Report I2011-1, Allegation I2009-0644	June 2011				4				15

* For audits issued between January 1, 2011, and October 31, 2011, this table generally reflects the agencies' one-year response. The California State Auditor's report 2012-041, *Recommendations Not Fully Implemented After One Year, the Omnibus Accountability Act of 2006*, released in January 2013, reflects these agencies' subsequent responses.

† As of July 1, 2012, the California Department of Mental Health became the new Department of State Hospitals.

Medi-Cal Managed Care Program

The Departments of Managed Health Care and Health Care Services Could Improve Their Oversight of Local Initiatives Participating in the Medi-Cal Two-Plan Model

REPORT NUMBER 2011-104, ISSUED DECEMBER 2011

This report concludes that both the departments of Managed Health Care (Managed Health Care) and Health Care Services (Health Care Services) have inconsistencies in the financial reviews they conduct of local initiatives that participate in the California Medi-Cal Assistance Program's (Medi-Cal) managed care two-plan model. Under this model, both a county entity, known as a local initiative and a commercial health plan provide managed care services to Medi-Cal beneficiaries. Managed Health Care is chronically late in completing its financial report reviews, thus seriously lessening their value as an oversight tool. Further, Managed Health Care does not have an effective process to monitor local initiatives' responses to corrective action plans that result from its financial examinations. For its part, Health Care Services is inconsistent in performing financial reviews, does not always ensure that all financial requirements are included, and has not performed financial reviews with the frequency outlined in its fiscal monitoring unit's internal policy. Analyses performed by Health Care services overlap the financial viability analysis that Managed Health Care generates from local initiatives' consolidated financial reports. Finally, both Managed Health Care and Health Care Services fail to conduct medical audits—intended to review several aspects of the provision of health care—of the health delivery system of each local initiative within the frequency required by law.

Our review also included the local initiatives' administration of the Medi-Cal two-plan model. Although most local initiatives hold tangible net equity (TNE) balances—the central measure of financial viability under the Knox-Keene Health Care Service Plan Act of 1975—that are significantly higher than the required TNE minimum balances—Health Care Services' performance indicators show that California's eight local initiatives in operation during the time covered by our audit provide a satisfactory level of care to beneficiaries. The four local initiatives we visited generally had adequate fiscal processes and internal controls to monitor their administrative expenses, although weak past policies at Kern Health Systems allowed it to enter into two contracts for medical claims reviews that were not cost-effective. Our review also found that the four local initiatives we visited use similar methods to set and approve salaries, although the salaries and retirement benefits of their highest-paid executives vary significantly.

In the report, the California State Auditor (state auditor) made the following recommendations to Managed Health Care and Health Care Services. We made no recommendations to the local initiatives. The state auditor's determination regarding the current status of recommendations is based on Managed Health Care and Health Care Services' responses to the state auditor as of December 2012.

Recommendation 1.1—See pages 16—19 of the audit report for information on the related finding.

To monitor local initiatives' financial viability and compliance with the Knox-Keene Act requirements, Managed Health Care should develop a formal policy to ensure that it reviews financial reports in a timely manner, and that administrative expenses are correctly categorized.

Managed Health Care's Action: Fully implemented.

Managed Health Care provided us the policies and procedures that it developed and implemented to ensure staff conduct thorough and timely financial reviews. In April 2012 Managed Health Care trained staff on these policies and procedures, including reviews of administrative expenses to ensure correct categorization. Further, Managed Health Care made changes to its financial filing system to help monitor that staff are following the new policies and procedures.

Recommendation 1.2—See pages 20 and 21 of the audit report for information on the related finding.

To ensure that all four financial soundness elements included in Health Care Services' contract are being reviewed, it should conduct financial reviews consistently and update its review tool to include working capital.

Health Care Services' Action: Fully implemented.

Health Care Services revised its financial review tools to include all four financial soundness elements and in February 2012 it approved a written policy that addressed the consistency of the financial reviews.

Recommendation 1.3—See pages 20 and 21 of the audit report for information on the related finding.

Health Care Services should develop a formal policy to ensure that it conducts financial reviews in a timely manner.

Health Care Services' Action: Fully implemented.

Health Care Services approved a written policy in February 2012 that addressed the timeliness of the financial reviews.

Recommendation 1.4—See pages 21 and 22 of the audit report for information on the related finding.

To make its financial solvency reviews more efficient and reduce the risk of errors, Health Care Services should coordinate with Managed Health Care when analyzing local initiatives' consolidated financial reports.

Health Care Services' Action: Pending.

Health Care Services implemented a policy in February 2012 to obtain Managed Health Care's financial information from its Web site and to use this information in its newly developed automated system to calculate various financial ratios. However, under this new policy Health Care Services continues to recreate the financial ratios that Managed Health Care's automated system currently provides.

Recommendation 1.5—See pages 22—24 of the audit report for information on the related finding.

To ensure that local initiatives implement corrective action plans, Managed Health Care should devise a more effective process to track, monitor, and review the status of local initiatives' corrective actions as they relate to financial examination requirements.

Managed Health Care's Action: Fully implemented.

Managed Health Care developed and implemented a corrective action plan tracking feature in its database to allow for the ready identification of all of the local initiatives' corrective action plans and their status. Also, in October 2012, Managed Health Care provided training to its staff on the new corrective action plan policies and procedures, as well as on the new tracking feature in its database.

Recommendation 1.6—See pages 25—27 of the audit report for information on the related finding.

Health Care Services should ensure that it performs annual medical audits of local initiatives as required by law.

Health Care Services' Action: Pending.

Health Care Services stated it is working with Managed Health Care to coordinate its efforts related to the medical audits. To ensure the work is leveraged, Health Care Services prepared a crosswalk of the departments' respective statutory and regulatory audit requirements. In addition, Health Care Services plans to phase-in the completion of annual medical audits of Medi-Cal managed care plans, including the local initiatives. Health Care Services indicated it completed two medical audits by the end of 2012 and it plans to continue to increase the number of medical audits completed each year, until full implementation is achieved in 2015. Health Care Services stated that this phase-in process is needed to allow it to increase the staffing required to conduct annual medical audits of all Medi-Cal managed care plans. To maintain a visible presence with managed health care plans, Health Care Services plans to conduct two types of more limited reviews to develop an ongoing understanding of what is occurring with each managed health care plan.

Recommendation 1.7—See pages 25—27 of the audit report for information on the related finding.

Managed Health Care should ensure that it obtains timely medical audits from Health Care Services. If it is unable to obtain timely medical audits from Health Care Services, it should conduct them itself.

Managed Health Care's Action: Fully implemented.

Managed Health Care has developed and implemented a written policy to track and secure copies of Health Care Services' medical audits and findings, and to the extent necessary, to timely schedule a Knox-Keene Act medical audit in the event that Health Care Services does not conduct its annual medical audit. Additionally, Managed Health Care has bi-monthly meetings with Health Care Services to coordinate Medi-Cal audit schedules, review the status of audit reports, and discuss the scope of work for future audits. Finally, Managed Health Care is working with Health Care Services to determine areas of overlap and distinction in their respective statutory and regulatory audit requirements.

Intellectual Property

An Effective Policy Would Educate State Agencies and Take Into Account How Their Functions and Property Differ

REPORT NUMBER 2011-106, ISSUED NOVEMBER 2011

Intellectual property typically consists of copyrights, trademarks, patents, and trade secrets. In November 2000, the California State Auditor (state auditor) issued a report titled *State-Owned Intellectual Property: Opportunities Exist for the State to Improve Administration of its Copyrights, Trademarks, Patents, and Trade Secrets*—report number 2000-110 (2000 audit report). The 2000 audit report recommended the Legislature take steps to help state agencies manage and protect the State's intellectual property.

This report concludes that the State has not enacted a statutory framework, nor has it implemented the recommendations made in the 2000 audit report or otherwise provided guidance to state agencies regarding the management and protection of intellectual property. The four state control agencies we spoke to—the Department of Finance, the Department of General Services (General Services), the State Controller's Office, and the California Technology Agency—generally do not provide policies or guidance to other state agencies regarding the management and protection of intellectual property because they do not believe that they are responsible for providing this type of guidance. However, more than half of the state agencies that responded to our survey about intellectual property stated that the State should establish statewide guidance for managing and protecting intellectual property. Moreover, the four state agencies we visited—the Department of Transportation (Caltrans), Department of Food and Agriculture (Food and Agriculture), California Energy Commission (Energy Commission), and Department of Health Care Services (Health Care Services)—had only limited written policies and instead generally relied on informal practices to manage and protect their intellectual property. To move forward, the State will need to clearly articulate the goals of any policy related to intellectual property. We believe that an effective policy would educate state agencies on their intellectual property rights and would be flexible and take into account that state agencies perform different functions and work with different types of intellectual property.

In the report, the state auditor made the following recommendations to Caltrans, Food and Agriculture, Energy Commission, Health Care Services, the Legislature, and the governor. The state auditor's determination regarding the current status of recommendations is based on the agencies' responses to the state auditor as of November 2012.

Recommendation 1.1—See pages 19—21, 31—32, and 35—40 of the audit report for information on the related finding.

Caltrans, the Energy Commission, Food and Agriculture, and Health Care Services should put in writing those policies and procedures related to intellectual property that they believe are necessary and appropriate to enable their staff to identify, manage, and protect their intellectual property.

Caltrans' Action: Fully implemented.

In June 2012 Caltrans issued a written policy related to ownership and use of its intellectual property. Further, Caltrans stated that it issued interim guidelines in October 2012 to assist its managers and employees to better manage and protect Caltrans' intellectual property. Finally, Caltrans stated that it will modify its interim guidelines as its program develops and General Services issues direction per Assembly Bill 744 (AB 744) [Chapter 463, Statutes of 2012], which was signed by the governor in September 2012.

Energy Commission's Action: Fully implemented.

The Energy Commission updated its policies and procedures to educate staff about intellectual property and how to protect it. It completed the policies and procedures in January 2012, and the Energy Commission stated that it made the information available to all staff on its intranet.

Food and Agriculture's Action: Fully implemented.

Food and Agriculture issued intellectual property policy and guidelines in July 2012.

Health Care Services' Action: No action taken.

Health Care Services indicated that it has not yet implemented the recommendation because of other high priority projects and staff vacancies. However, Health Care Services stated that pursuant to AB 744 it will coordinate with General Services to track and manage its intellectual property.

Recommendation 1.2—See page 20 of the audit report for information on the related finding.

Food and Agriculture should ensure that it has developed intellectual property terms and conditions that are appropriate for the types of agreements into which its contracts office enters.

Food and Agriculture's Action: Fully implemented.

Food and Agriculture issued intellectual property policy and guidelines in July 2012. The policy specifies responsibility for developing and registering Food and Agriculture's intellectual property including language in contracts that is appropriate and necessary.

Recommendation 1.3—See pages 21 and 22 of the audit report for information on the related finding.

The Energy Commission should take the necessary steps to strengthen its royalty process to ensure that it receives the proper amounts from all contractors that owe it royalties.

Energy Commission's Action: Fully implemented.

The Energy Commission stated that it has modified its annual Public Interest Energy Research (PIER) royalty letter to require a response and added language to its PIER solicitations indicating that bidders who have not responded to the royalty repayment letter may be screened out from participating in future PIER funding opportunities. The Energy Commission also stated that it amended a contract with the State Controller's Office to include review of PIER royalty payments and that those reviews are underway. The Energy Commission stated it has drafted new PIER terms and conditions, which require certification that the royalty amount paid is correct. Finally, the Energy Commission stated that it hired a contractor to perform follow-up calls and independent market assessment on PIER researchers who might have sold intellectual property products and not yet paid royalties and to identify current PIER researchers that will be required to pay future royalties. The Energy Commission expected work on this contract to begin in December 2012.

Recommendation 1.4.a—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should provide guidance to agencies that will give them the understanding necessary to identify when potential intellectual property may exist, including when contractors' work may result in intellectual property, and that will provide them with specific information on intellectual property protections.

Legislative Action: Legislation partially implemented.

AB 744 requires General Services to develop an outreach campaign informing state agencies of their rights and abilities concerning intellectual property. However, the outreach campaign requirement is specific to intellectual property state employees create and does not mention contractors.

Recommendation 1.4.b—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should recognize that not all agencies have the same needs and that a one-size-fits-all approach may not be feasible. An effective policy should provide agencies with flexibility regarding ownership of intellectual property rights.

Legislative Action: Legislation enacted.

AB 744 requires General Services to develop various samples and other information for state agencies to consider for owning and managing intellectual property. AB 744 does not require General Services to develop a strict policy that state agencies must follow and in that respect provides the flexibility called for.

Recommendation 1.4.c—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should have as one of its primary goals the promotion of the greatest possible public benefit from intellectual property the State creates or funds.

Legislative Action: Legislation enacted.

AB 744 requires General Services to develop various samples and other information for state agencies to consider for owning and managing intellectual property. In passing AB 744, the Legislature declared its intent that the rights of state agencies and departments to track and manage intellectual property created with any state funds shall be interpreted so as to promote the benefit to the public.

Recommendation 1.4.d—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should recognize that although additional revenue may be a potential benefit of the State's intellectual property, it is not the only benefit, nor should it be the driving force behind a state policy. However, the policy should provide guidance for identifying valuable intellectual property and how to commercialize it, if appropriate.

Legislative Action: Legislation enacted.

AB 744 requires General Services to develop an outreach campaign to educate state agencies about their rights and abilities concerning intellectual property, to develop factors that state agencies should consider when deciding whether to sell their intellectual property or license it, and to develop sample invention assignment agreements to secure the rights to potentially patentable intellectual property.

Recommendation 1.4.e—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should establish the minimum rights agencies should obtain for intellectual property developed by its contractors.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

Recommendation 1.5—See pages 28 and 43—51 of the audit report for information on the related finding.

If the Legislature and governor believe it would be valuable to understand the amount of intellectual property the State holds on an ongoing basis, they should consider establishing a mechanism to track the State's intellectual property.

Legislative Action: Legislation enacted.

AB 744 requires General Services, beginning January 2015, to track intellectual property generated by state employees or with state funding. General Services must develop a database to track intellectual property that includes certain information, such as date of creation and sources of funding. General Services is to update the database every three years.

Sex Offender Commitment Program

Streamlining the Process for Identifying Potential Sexually Violent Predators Would Reduce Unnecessary or Duplicative Work

REPORT NUMBER 2010-116, ISSUED JULY 2011

This report concludes that the Department of Corrections and Rehabilitation (Corrections) and the Department of Mental Health's (Mental Health)[1] processes for identifying and evaluating sexually violent predators (SVPs) are not as efficient as they could be and at times have resulted in the State performing unnecessary work. The current inefficiencies in the process for identifying and evaluating potential SVPs stems in part from Corrections' interpretation of state law. These inefficiencies were compounded by recent changes made by voters through the passage of Jessica's Law in 2006. Specifically, Jessica's Law added more crimes to the list of sexually violent offenses and reduced the required number of victims to be considered for the SVP designation from two to one, and as a result many more offenders became potentially eligible for commitment. Additionally, Corrections refers all offenders convicted of specified criminal offenses enumerated in law but does not consider whether an offender committed a predatory offense or other factors that make the person likely to be an SVP, both of which are required by state law. As a result, the number of referrals Mental Health received dramatically increased from 1,850 in 2006 to 8,871 in 2007, the first full year Jessica's Law was in effect. In addition, in 2008 and 2009 Corrections referred 7,338 and 6,765 offenders, respectively. However, despite the increased number of referrals it received, Mental Health recommended to the district attorneys or the county counsels responsible for handling SVP cases about the same number of offenders in 2009 as it did in 2005, before the voters passed Jessica's Law. In addition, the courts ultimately committed only a small percentage of those offenders. Further, we noted that 45 percent of Corrections' referrals involved offenders whom Mental Health previously screened or evaluated and had found not to meet SVP criteria. Corrections' process did not consider the results of previous referrals or the nature of parole violations when re-referring offenders, which is allowable under the law.

Our review also found that Mental Health primarily used contracted evaluators to perform its evaluations—which state law expressly permits through the end of 2011. Mental Health indicated that it has had difficulty attracting qualified evaluators to its employment and hopes to remedy the situation by establishing a new position with higher pay that is more competitive with the contractors. However, it has not kept the Legislature up to date regarding its efforts to hire staff to perform evaluations, as state law requires, nor has it reported the impact of Jessica's Law on the program.

In the report, the California State Auditor (state auditor) made the following recommendations to Mental Health and Corrections. The state auditor's determination regarding the current status of recommendations is based on Mental Health's and Corrections' responses to the state auditor as of July 2012 and August 2012, respectively.

Recommendation 1.1—See pages 15—17 of the audit report for information on the related finding.

To enable it to track trends and streamline processes, Mental Health should expand the use of its database to capture more specific information about the offenders whom Corrections refers to it and the outcomes of the screenings and evaluations that it conducts.

Mental Health's Action: Fully implemented.

Mental Health has completed database enhancements that will enable it to track more specific information related to victims, offenders, offenses, clinical screening outcomes, and evaluation outcomes.

[1] As of July 1, 2012, the Department of Mental Health became the Department of State Hospitals.

Recommendation 1.2.a—See pages 19 and 20 of the audit report for information on the related finding.

To eliminate duplicative effort and increase efficiency, Corrections should not make unnecessary referrals to Mental Health. Corrections and Mental Health should jointly revise the structured screening instrument so that the referral process adheres more closely to the law's intent.

Mental Health's Action: No action taken.

➲ Although Mental Health indicates that referrals from Corrections have declined, it did not specify any actions taken to revise the structured screening instrument. Mental Health stated that referral efficiencies have been realized through the implementation of Assembly Bill 109 and that referrals from Corrections for January through June 2012 were significantly lower than in previous years. Mental Health stated that it now agrees that all of the referrals received from Corrections require review by Mental Health staff.

Recommendation 1.2.b—See pages 19—23 of the audit report for information on the related finding.

To eliminate duplicative effort and increase efficiency, Corrections should not make unnecessary referrals to Mental Health. For example, Corrections should better leverage the time and work it already conducts by including in its referral process: (1) determining whether the offender committed a predatory offense, (2) reviewing results from any previous screenings and evaluations that Mental Health completed and considering whether the most recent parole violation or offense might alter the previous decision, and (3) using the State Authorized Risk Assessment Tool for Sex Offenders (STATIC-99R) to assess the risk that an offender will reoffend.

Corrections' Action: No action taken.

➲ Although Corrections explored what additional screening it could do before making referrals to Mental Health, it chose not to implement any of the changes we recommended to its referral process. Corrections stated that it has determined that the STATIC-99 scores should continue to be part of the Mental Health clinical evaluation and should not be used by Corrections to screen out a case prior to referral to Mental Health for evaluation. Corrections also stated that due to the Public Safety Realignment Act, Corrections no longer receives parole violators. Corrections stated that it and its Board of Parole Hearings will review previous screening results and refer the case to Mental Health. Corrections and its Board of Parole Hearings stated that it believes that Mental Health is better qualified to determine whether the current offense would alter a prior determination based on a clinical evaluation of the current offense and its possible physiological connectedness with the previous sex offense.

Recommendation 1.3—See pages 23 and 24 of the audit report for information on the related finding.

To allow Mental Health sufficient time to complete its screenings and evaluations, Corrections should improve the timeliness of its referrals. If it does not achieve a reduction in referrals from implementing recommendation 1.2.b, Corrections should begin the referral process earlier than nine months before offenders' scheduled release dates in order to meet its six-month statutory deadline.

Corrections' Action: Fully implemented.

Corrections provided a memorandum issued in August 2011 adjusting its timelines and transmittal methods for SVP cases. Corrections also implemented a new database for tracking SVP cases and indicated that it tracks referral dates to its Board of Parole Hearings and Mental Health. Additionally, Corrections stated that the number of cases referred to Mental Health has decreased significantly as a result of Public Safety Realignment. Corrections provided a report from its tracking system showing a reduction in referrals to Mental Health.

Recommendation 1.4—See pages 27—29 of the audit report for information on the related finding.

To reduce costs for unnecessary evaluations, Mental Health should either issue a regulation or seek a statutory amendment to clarify that when resolving a difference of opinion between the two initial evaluators of an offender, Mental Health must seek the opinion of a fourth evaluator only when a third evaluator concludes that the offender meets SVP criteria.

Mental Health's Action: Partially implemented.

Mental Health stated that it is moving forward with a regulation that would allow it to seek the opinion of a fourth evaluator only when a third evaluator concludes that the offender meets the SVP criteria when resolving a difference of opinion between the two initial evaluators. As of August 2012 Mental Health states that its legal office is reviewing the final documents for submission to the Office of Administrative Law.

Recommendation 1.5—See pages 29—32 of the audit report for information on the related finding.

To ensure that it will have enough qualified staff to perform evaluations, Mental Health should continue its efforts to obtain approval for a new position classification for evaluators. If the State Personnel Board[2] (SPB) approves the new classification, Mental Health should take steps to recruit qualified individuals as quickly as possible. Additionally, Mental Health should continue its efforts to train its consulting psychologists to conduct evaluations.

Mental Health's Action: Partially implemented.

According to Mental Health, it received approval for the SVP Evaluator classification from the SBP in March 2012 and began immediate recruitment. Although Mental Health reported that it expects to fill 35 evaluator positions by the end of July 2012, it did not provide documentation to show how many have been hired so far. Additionally, Mental Health provided documentation to show it is continuing efforts to provide training to its consulting psychologists to conduct evaluations and asserted that all existing consulting psychologists have received the training. However, it has not yet provided us with the documentation we requested to demonstrate who attended the training.

Recommendation 1.6—See page 32 of the audit report for information on the related finding.

To ensure that the Legislature can provide effective oversight of the program, Mental Health should complete and submit as soon as possible its reports to the Legislature about Mental Health's efforts to hire state employees to conduct evaluations and about the impact of Jessica's Law on the program.

Mental Health's Action: Pending.

Mental Health stated that it submitted to the Legislature a combined report on its efforts to hire state employees to conduct evaluations for the periods of July 2011 and January 2012 and that it is updating the data contained in the report regarding the impact of Jessica's Law. However, Mental Health has not provided us with copies of those reports.

[2] On July 1, 2012, the State Personnel Board and the Department of Personnel Administration were combined to create the California Department of Human Resources.

Department of Mental Health

Waste of State Funds, Misuse of State Resources (Case I2009-0644)

REPORT NUMBER I2011-1, CHAPTER 1, ISSUED AUGUST 2011

The report found that an executive at the Department of Mental Health[1] (Mental Health) wasted at least $51,244 in state funds in 2009, the one-year period that we examined, by employing a long-time senior official to perform activities that either were undertaken on behalf of a nonstate organization or did not serve a state purpose. In fall 2010 the executive directed the senior official to discontinue using state-compensated time for activities that we found did not benefit the State. Soon thereafter the executive retired from state service, and the senior official began using leave while he awaited new work assignments.

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

Recommendation 1.a—See pages 5—12 of the investigative report for information on the related finding.

To address the waste and misuse of state resources, Mental Health should evaluate the need for the senior official's position.

Mental Health's Action: Fully implemented.

Mental Health reported that in following our recommendations, it reevaluated the necessity of the senior official's position and concluded that the position was unnecessary. Mental Health stated that although a former administration created the position for desirable purposes, it determined that these functions were no longer essential and should not be maintained given current fiscal constraints. The senior official resigned from state service in May 2011 and Mental Health eliminated his position.

Recommendation 1.b—See pages 10 and 11 of the investigative report for information on the related finding.

If Mental Health determines that the senior official's position can provide a benefit to the State, clarify the job duties associated with the position and increase oversight of the position's activities to ensure that the State receives material benefits from the activities.

Mental Health's Action: Fully implemented.

Mental Health eliminated the senior official's position. Thus, it had no need to clarify the job duties and increase oversight for this position.

Recommendation 1.c—See pages 6—12 of the investigative report for information on the related finding.

Mental Health should evaluate the senior official's workdays during the past three years to determine whether the senior official should have charged leave on workdays that he claimed to have worked but actually devoted himself to nonstate activities.

[1] As of July 1, 2012, the Department of Mental Health became the Department of State Hospitals.

Mental Health's Action: Fully implemented.

Mental Health reported that it was unable to evaluate fully the senior official's workdays during the past three years to determine whether the senior official should have charged more leave. Instead, Mental Health stated that it found scant evidence of how the senior official spent his workdays even though it tried to reconstruct his daily work activities. Mental Health thus concluded that compiling the necessary evidence would require extensive work by staff to evaluate daily activities that occurred "long ago." The official resigned from state service in May 2011.

Recommendation 1.d—See pages 7—9 of the investigative report for information on the related finding.

Mental Health should require the senior official to use leave for workdays on which he did not actually perform work for the State or to repay the State the amount of salary he received for those days.

Mental Health's Action: Fully implemented.

Mental Health stated that it is unlikely to recover any portion of the senior official's salary. In addition to its inability to evaluate the senior official's workdays, Mental Health stated that even though it expected a 40-hour workweek from the senior official, more or less than eight hours on individual days was permissible. Further, it stated that it had no documented evidence that the senior official failed to perform many of his duties. Finally, Mental Health indicated that even if it were able to determine the salary amount the senior official earned on workdays he did not actually perform work for the State, it could not seek to recover those costs since he no longer is employed by the State.

Departments of Public Health and Social Services

Weaknesses in the Administration of the Child Health and Safety Fund and the State Children's Trust Fund Limit Their Effectiveness

REPORT NUMBER 2012-105, ISSUED NOVEMBER 2012

This report concludes that the Department of Public Health (Public Health) and the Department of Social Services (Social Services) exhibited weaknesses in their administration of these funds.

Public Health is responsible for managing the part of the Child Health and Safety Fund (health and safety fund) known as the Kids' Plates Program, a prevention program for unintentional childhood injuries. However, Public Health and its predecessor agency, the Department of Health Services[1] (Health Services), violated state law when they contracted with the San Diego State University Research Foundation (research foundation) to manage the Kids' Plates Program from 2004 to 2010. Specifically, they did not comply with provisions of state law that prohibit state agencies from contracting with private entities to perform work that state employees could perform. Further, Public Health continued to have the research foundation perform services without an approved contract, in violation of state law. Because the research foundation had been operating without a contract, it was not able to award any grants to prevent unintentional childhood injuries between July 2010 and May 2011. Moreover, Public Health and Health Services paid the research foundation to administer the program from the funds that the Legislature had intended it to use directly for childhood injury prevention programs. They spent roughly 40 percent of their total appropriations received between fiscal years 2006–07 and 2009–10, or nearly $2.1 million, on the research foundation's administrative costs for the Kids' Plates Program. Nearly two years after it stopped contracting with the research foundation, Public Health awarded 115 grants to community agencies, but it did not comply with its own contracting procedures when it awarded these grants.

Our review also noted weaknesses in Social Services' administration of the State Children's Trust Fund (trust fund). Social Services did not fulfill certain monitoring requirements for payments it made to grantees that operate local child abuse and neglect prevention and intervention programs. For example, we found instances in which Social Services may have used money from the trust fund to pay expenditures that did not meet the trust fund's requirements. In addition, although our review found that the five grantees we reviewed appear to have met the performance measures established in their grant agreements, Social Services' Office of Child Abuse Prevention (office) can improve its monitoring of grantees' progress. Specifically, the office's guidelines do not include a process for ensuring that its consultants review the grantees' reports and document their assessments of whether the grantees met the measurable outcomes contained in their grant agreements. Further, the office was unable to provide us with documentary evidence demonstrating that it had done so. Finally, the office has not fully complied with the state law that requires it to publish information about the trust fund. For example, the law requires the office to identify the programs it pays for using the trust fund and the target populations these programs serve. However, the office's Web site does not include conferences, education services, and outreach it paid for with the trust fund.

In the report, the California State Auditor (state auditor) made the following recommendations to Public Health and Social Services. The state auditor's determination regarding the current status of recommendations is based on Public Health's and Social Services' responses to the state auditor as of November 2012.

[1] On July 7, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Heath.

Recommendation 1.1—See pages 16—18 of the audit report for information on the related finding.

To ensure that it does not violate provisions of state law that prohibit contracts for services that state employees can perform, Public Health should establish that it has adequate justification to contract under Section 19130 (b), prior to submitting contracts to the Department of General Services (General Services) for approval.

Public Health's Action: Pending.

Public Health stated that effective November 3, 2009, its Contracts and Purchasing Services Section Bulletin 09-13, titled, "Contracts/Procurements Involving Personal Services," requires the completion of a form "Justification for Contracting Out Services" for all personal services contracts. Public Health also stated that its Office of Legal Services must review and approve this form before a contract or amendment can by fully executed.

Public Health stated that by December 1, 2012, it will distribute an e-mail reminder of this bulletin to its section chiefs and above. In addition, Public Health stated that its Center for Chronic Disease Prevention and Health Promotion (center), which oversees the Kids' Plates Program, will take the following actions to remind staff of the established policy: (1) distribute an e-mail reminder of this bulletin all center staff; (2) direct division management to ensure compliance with policy; and (3) remind administrative staff from all branches, via administration update meetings, of the need to follow the established policy.

Recommendation 1.2.a—See pages 20 and 21 of the audit report for information on the related finding.

To comply with state contracting laws and policies that protect the State's interest, Public Health should ensure that its staff do not allow contractors to work before General Services has approved the contracts.

Public Health's Action: Pending.

Public Health stated that by December 1, 2012, the center will take the following actions to ensure that its staff comply with this mandate and with the internal contracting policies that speak to this mandate: (1) distribute an e-mail reminder of the relevant Public Contract Code, *State Contracting Manual*, and *Public Health Administrative Manual* sections regarding noncommencement of work without a fully executed contract; (2) direct division management to ensure compliance with this mandate; and (3) remind administrative staff from all branches, via administration update meetings, of the need to follow established policy.

Recommendation 1.2.b—See pages 23 and 24 of the audit report for information on the related finding.

To comply with state contracting laws and policies that protect the State's interest, Public Health should ensure that its staff do not use service orders to circumvent the State's contracting policies.

Public Health's Action: Pending.

Public Health stated that by December 1, 2012, the center will instruct program staff to review the *Public Health Service Order Manual* and ensure that all staff are aware of the appropriate use of service orders. In addition, Public Health stated that the center will provide verbal reminders to division and branch managers and administrative assistants and that the center will require staff involved in the procurement process to attend Public Health's Procurement Training series held by its program support branch. Finally, Public Health reported that the administrative support unit chief within its Safe and Active Communities Branch (branch) will complete the series on October 31, 2012.

Recommendation 1.2.c—See page 25 of the audit report for information on the related finding.

To comply with state contracting laws and policies that protect the State's interest, Public Health should recoup the overpayment made to the San Diego State University Research Foundation (research foundation), if applicable.

Public Health's Action: Pending.

Public Health stated that by December 31, 2012, the administrative support unit chief within its branch will work with its Accounting Section to review the audit finding on the payments made to the research foundation. Further, Public Health stated that its Accounting Section will bill the research foundation to recoup any amount that it has overpaid.

Recommendation 1.3—See page 22 of the audit report for information on the related finding.

To determine whether the appropriation to administer the Kids' Plates Program is sufficient, Public Health should continue its plans to evaluate the costs of the regional grants Request for Application (RFA) process and its monitoring of the awards for fiscal year 2012–13. If Public Health determines that the appropriation is insufficient, it should seek an amendment to state law.

Public Health's Action: Pending.

Public Health stated that it will continue its plans to evaluate the costs of the regional grants RFA process and its monitoring of the awards for fiscal year 2012–13. According to Public Health, its branch will continue to document the staff hours expended to conduct the regional grants RFA process and monitor the awards. Further, Public Health stated that if the $25,000 set aside to cover administrative support for the program is not sufficient, it will seek alternative resources, including exploring an amendment to state law.

Recommendation 1.4—See pages 24—26 of the audit report for information on the related finding.

To comply with the *State Contracting Manual*, if Public Health chooses to use contractors for the Kids' Plates Program, it should direct its staff to substantiate the expenditures contractors claim. For example, Public Health could ask the contractors to submit for review detailed records substantiating all or a sample of their invoices.

Public Health's Action: Pending.

Public Health stated that by December 1, 2012, the center will institute a policy requiring random or periodic review of detailed expenditures.

Recommendation 1.5.a—See pages 28 and 29 of the audit report for information on the related finding.

To ensure that it is able to measure its progress toward fulfilling the requirements of the health and safety fund, Public Health should establish performance measurements for the Kids' Plates Program.

Public Health's Action: Pending.

Public Health stated that the Kids' Plates Program RFA requires the completion of a template, which requires a specific "Performance Measure and/or Deliverable" for each major project activity. Public Health indicated that it will build these performance measures into the contract deliverables of each of the three awardees and it anticipated the contracts will begin January 1, 2013. Finally, Public Health stated it will require the contractors to submit progress reports on June 30, 2013, December 31, 2013, and June 30, 2014.

Recommendation 1.5.b—See pages 28 and 29 of the audit report for information on the related finding.

To ensure that it is able to measure its progress toward fulfilling the requirements of the health and safety fund, Public Health should periodically assess its progress toward meeting its measureable outcomes.

Public Health's Action: Pending.

Public Health stated that the small number and limited scope of Kids' Plates Program projects funded at this time preclude a large-scale evaluation. Public Health also indicated that its injury data surveillance system (http://epicenter.cdph.ca.gov) has county-level data on serious injuries and deaths. According to Public Health, beginning in January 2013, it will assess trend data annually to monitor reductions in injuries in those counties that have instituted projects.

Recommendation 2.1.a—See pages 31—36 of the audit report for information on the related finding.

To ensure that the office complies with the *State Contracting Manual*, Social Services should direct the office to substantiate the expenditures that grantees claim. For example, the office could ask the grantees to submit for review detailed records for all or a sample of their invoices.

Social Services' Action: Pending.

Social Services stated that it has begun reviewing and updating its internal grant and contract manuals to strengthen its process for substantiating expenditures. Specifically, Social Services indicated that it will update its internal manuals to include procedures for requesting random samples of backup documentation on at least a quarterly basis from the grantee or contractor in order to substantiate claimed expenditures. Social Services plans to complete its update of the internal manuals by December 31, 2012.

Recommendation 2.1.b—See page 33 of the audit report for information on the related finding.

To ensure that the office complies with the *State Contracting Manual*, Social Services should direct the office to recover the overpayment from the Children's Bureau of Southern California, if applicable.

Social Services' Action: Pending.

Social Services stated that it has initiated contact with the Children's Bureau of Southern California and plans to resolve this audit finding by November 30, 2012.

Recommendation 2.2.a —See pages 31—36 of the audit report for information on the related finding.

To ensure that it uses trust fund moneys only for permissible uses, Social Services should direct its internal audits staff to periodically perform reviews of the trust fund expenditures.

Social Services' Action: Pending.

Social Services stated that it will periodically audit or review all special fund expenditures. Social Services also indicated that it will include a special fund review in its 2013 audit plan.

Recommendation 2.2.b—See pages 33 and 34 of the audit report for information on the related finding.

To ensure that it uses trust fund moneys only for permissible uses, Social Services should revise its invoicing process to clearly identify the objectives in the scope of work section of its grant agreements and their corresponding funding sources.

Social Services' Action: Pending.

Social Services stated that the office has begun the process of updating its invoice form to identify the objectives in the scope of work section of its grant agreements to the corresponding funding sources. Social Services plans to complete this process by January 31, 2013.

Recommendation 2.3—See pages 36—39 of the audit report for information on the related finding.

To ensure compliance with the state law governing the trust fund that allows it to fund research and demonstration projects that explore the nature and incidence of child abuse and the development of long-term solutions to the problem of child abuse, Social Services should establish procedures to ensure that all grants it awards for research and demonstration projects clearly demonstrate a linkage to the trust fund's requirements.

Social Services' Action: Pending.

Social Services stated that it will add a section to its grant manual that specifically identifies the allowable uses of the trust fund as set forth in the Welfare and Institutions Code and identifies the process to use to document linkages to these requirements when funding all new projects utilizing the trust fund.

Recommendation 2.4.a—See pages 39 and 40 of the audit report for information on the related finding.

To ensure that the office complies with the *State Contracting Manual*, Social Services should direct the office to update its guidelines for grant administration to establish a formal process for reviewing the grantees' progress reports and interim products. This process should include documenting the office's review and assessment of whether the grantees meet the goals, objectives, and measurable outcomes in their grant requirements.

Social Services' Action: Pending.

Social Services stated that the office has begun reviewing its grant manual and will update it to include a section on reviewing grantees' progress reports. Social Services also indicated that the office has created a new form to document the receipt, review, and approval of grantees' progress reports. Social Services plans to complete the update of the grant manual by December 31, 2012.

Recommendation 2.4.b—See pages 39 and 40 of the audit report for information on the related finding.

To ensure that the office complies with the *State Contracting Manual*, Social Services should direct the office to retain the documentary evidence of its review and assessment in the grantee files.

Social Services' Action: Pending.

Social Services stated that the office has created a new form to document the receipt, review, and approval of grantees' progress reports, which will be retained in the grantees' files. In addition, Social Services indicated that this form instructs consultants to keep any backup documentation (e-mails, document phone calls, etc.) in the grantees' files, in accordance with its document retention policies. Social Services plans to implement this process by December 31, 2012.

Recommendation 2.5.a—See pages 39 and 40 of the audit report for information on the related finding.

To ensure that its efforts funded by the trust fund are preventing or reducing incidences of child abuse and neglect, Social Services should develop universal performance measurements for the trust fund.

Social Services' Action: No action taken.

Social Services did not specifically address this recommendation.

Recommendation 2.5.b—See pages 39 and 40 of the audit report for information on the related finding.

To ensure that its efforts funded by the trust fund are preventing or reducing incidences of child abuse and neglect, Social Services should ensure that the performance measurements are reflected in the grants it awards.

Social Services' Action: No action taken.

Social Services did not specifically address this recommendation.

Recommendation 2.5.c—See pages 39 and 40 of the audit report for information on the related finding.

To ensure that its efforts funded by the trust fund are preventing or reducing incidences of child abuse and neglect, Social Services should evaluate the performance measurements annually to assess whether the trust fund's programs and services are effective in reducing incidences of child abuse and neglect.

Social Services' Action: No action taken.

Social Services did not specifically address this recommendation.

Recommendation 2.6.a—See pages 40—44 of the audit report for information on the related finding.

To ensure compliance with the state law that requires the office to publish certain trust fund information, Social Services should require the office to establish procedures to ensure inclusion on its Web site of all programs and services it funded using the trust fund.

Social Services' Action: Pending.

Social Services stated that by February 1, 2013, the office will ensure that the Web site provides information on all the programs and services financed with all the fund sources it administers, including those financed wholly or in part by the trust fund.

Recommendation 2.6.b—See pages 40—44 of the audit report for information on the related finding.

To ensure compliance with the state law that requires the office to publish certain trust fund information, Social Services should require the office to publish on its Web site the amount in the trust fund as of June 30 each year.

Social Services' Action: No action taken.

Social Services stated that the office updated its Web site to include the publication of the amount of, and expenditure data associated with, the trust fund as of June 30 each year and will ensure the Web site is updated annually with the information required by statute. However, as of December 6, 2012, our review of the attachment containing the trust fund's expenditures from the office's Web site link titled "Funding Information" revealed that the office did not provide updated information for the trust fund. Specifically, the attachment did not contain the trust fund balance as of June 30, 2012, as state law requires.

Recommendation 2.7.a—See pages 40—44 of the audit report for information on the related finding.

To improve the presentation of the information it publishes for the trust fund, Social Services should establish a link that separately provides descriptions of the types of programs and services it funds using the trust fund and the target populations that benefit from the programs.

Social Services' Action: Pending.

Social Services stated that the office will provide information on all the types of programs and services financed with all the fund sources it administers, including those financed wholly or in part by the trust fund. In addition, Social Services indicated that the office will also include target populations served. Social Services plans to complete this process by January 1, 2013.

Recommendation 2.7.b—See pages 40—44 of the audit report for information on the related finding.

To improve the presentation of the information it publishes for the trust fund, Social Services should present the amount it disbursed from the trust fund in the prior fiscal year by the amount spent for each program or service.

Social Services' Action: Pending.

Social Services stated that, by January 31, 2013, it will update its Web site with information on the amount disbursed from the trust fund at the close out of each fiscal year.

Foster Family Home and Small Family Home Insurance Fund

Expanding Its Coverage Will Increase Costs and the Department of Social Services Needs to Improve Its Management of the Insurance Fund

REPORT NUMBER 2010-121, ISSUED SEPTEMBER 2011

In September 1986 the Legislature established the Foster Family Home and Small Family Home Insurance Fund (insurance fund) to pay, on behalf of foster family homes and small family homes (licensed homes), the claims of foster children, their parents, or their guardians stemming from an accident that results in bodily injury or personal injury neither expected nor intended by the foster parent.

This report concludes that almost 90 percent of the foster parents running licensed homes who responded to our survey were unaware of the insurance fund's existence. In addition, approximately a third of these foster parents reported that the possibility of liability claims against them made them less likely to continue as foster parents in the future. Expanding the insurance fund's coverage to homes that are certified by foster family agencies (FFAs), which are organizations that recruit, certify, and train parents who provide foster family homes not licensed by the State, may be costly. If the Legislature desires to expand the insurance fund's coverage to include the FFAs' certified homes, it will have to make statutory amendments to expressly permit the insurance fund to pay claims on behalf of certified homes. Based on our survey results and the insurance fund's claims history, our consultant estimated that expanding the insurance fund's coverage to the FFAs' certified homes could potentially cost the State a minimum of $967,500 each year. Further, if the Legislature desires to enable the insurance fund to cover legal guardians participating in the Kinship Guardianship Assistance Payment (Kin GAP) program, it will have to amend the pertinent statutes to expressly provide coverage for these guardians. Due to limitations in obtaining readily available and pertinent data, we were unable to survey the Kin GAP families and project the financial impact of adding them to the insurance fund.

This report also concludes that the Department of Social Services (Social Services) did not ensure that the Department of General Services (General Services), its designated contract agency, approved or rejected claims filed against the insurance fund within the 180 day time frame state law mandates. Social Services also failed to obtain key information from General Services, and as a result, Social Services has been unable to accurately project the insurance fund's budget needs. As of December 31, 2010, the insurance fund had a balance of roughly $5.4 million, which is significantly higher than the $1 million amount we estimate it needs to maintain as a reserve. Should the Legislature choose to expand the insurance fund's coverage to include certified homes and Kin GAP families, Social Services will need to reevaluate this reserve amount.

In the report, the California State Auditor (state auditor) made the following recommendations to Social Services and the Legislature. The state auditor's determination regarding the current status of recommendations is based on Social Services' response to the state auditor as of October 2012.

Recommendation 1.1—See page 18 of the audit report for information on the related finding.

To mitigate foster parents' concerns about liability and to increase the likelihood that they will continue to serve as foster parents, Social Services should develop more effective methods to inform and remind licensed homes about the availability of the insurance fund.

Social Services' Action: Fully implemented.

Social Services issued a memo on September 28, 2011, instructing its Community Care Licensing Division (licensing division) program analysts to provide foster parents with General Services' insurance fund handout during the pre-licensing visit. In addition, Social Services posted the insurance

fund information on the licensing division's Web site on October 20, 2011. Finally, Social Services included the insurance fund information in the licensing division's fall 2011 Children's Residential Quarterly Update Newsletter.

Recommendation 1.2—See pages 21 and 22 of the audit report for information on the related finding.

If the Legislature desires that the insurance fund provide coverage to the FFAs' certified homes and Kin GAP families, it should amend the pertinent statutes to expand the insurance fund's coverage to include them.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

Recommendation 1.3.a—See pages 23—25 of the audit report for information on the related finding.

To comply with state law and improve the timeliness of claims processing, Social Services should ensure that General Services approves or rejects all claims within the mandated 180-day deadline.

Social Services' Action: Fully implemented.

Social Services stated that General Services has implemented a system to be in compliance with the mandated 180-day deadline, by either accepting or rejecting a claim within 180 days. In addition, Social Services implemented a process to track claims pending at General Services to ensure they are processed in 180 days.

Recommendation 1.3.b—See pages 23—25 of the audit report for information on the related finding.

To comply with state law and improve the timeliness of claims processing, Social Services should require General Services to ensure that claimants receive prompt notification of its decision to approve or reject their claims.

Social Services' Action: Fully implemented.

Social Services stated that General Services has implemented a system to be in compliance with the mandated 180-day deadline, by either accepting or rejecting a claim within 180 days. In addition, Social Services implemented a process to track claims pending at General Services to ensure they are processed in 180 days.

Recommendation 1.4—See pages 23—25 of the audit report for information on the related finding.

To ensure the expedient disposition of claims, the Legislature should consider amending state law to provide claimants the option of litigating against the insurance fund if General Services does not approve or reject their claims within the 180-day deadline described in state law.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

Recommendation 1.5.a—See pages 26 and 27 of the audit report for information on the related finding.

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should ensure that General Services provides it with all the claims information specified in the interagency agreement.

Social Services' Action: Fully implemented.

Social Services worked with General Services to revise its quarterly reports to include all of the claims information specified in the interagency agreement.

Recommendation 1.5.b—See pages 27—29 of the audit report for information on the related finding.

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should use these claims and expenditure data to determine the annual appropriation amount needed for the insurance fund to meet its anticipated liabilities.

Social Services' Action: Pending.

Social Services stated that it developed a methodology for determining an adequate insurance fund appropriation that will be based, in part, upon General Services' quarterly reports. However, Social Services' methodology does not sufficiently explain the steps necessary for making this determination. Social Services stated that it plans to provide us with its fiscal analysis of the fund and the supporting documentation by January 10, 2013.

Recommendation 1.5.c—See pages 27—29 of the audit report for information on the related finding.

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should establish a written policy or procedures to guide staff on the appropriate methodology to use when calculating these anticipated liabilities.

Social Services' Action: Pending.

Social Services stated that it has developed methodologies for determining the insurance fund's annual appropriation and its reserve requirements. However, both methodologies lack the details necessary to guide staff on the appropriate steps to take when calculating these anticipated liabilities. Social Services stated that it plans to provide us with its fiscal analysis of the fund and the supporting documentation by January 10, 2013.

Recommendation 1.5.d—See pages 27—29 of the audit report for information on the related finding.

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should establish an adequate reserve amount for the insurance fund and reevaluate it annually.

Social Services' Action: Pending.

Social Services stated that future adjustments to the fund balance and appropriation will be conducted as part of the budget process for developing the fiscal year 2013–14 governor's budget. In its methodology, Social Services states its intent to evaluate the reserve amount annually, or sooner as directed by circumstances or controlling agencies. Social Services stated that it plans to provide us with its fiscal analysis of the fund and the supporting documentation by January 10, 2013.

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 November 2012.

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.

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: Fully implemented.

Social Services began its first address comparison in late December 2011 using its databases and Justice's sex offender registry. Social Services has continued to refine this process and has performed these address comparisons on a regular basis. Social Services added that it continues to assess its resource needs.

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 proposed but not enacted.

Assembly Bill 493 (AB 493), which was held in the Senate Appropriations Committee when the 2011–12 Legislative Session ended, would have created a general prohibition on registered sex offenders living or working in licensed children facilities or CWS placements.

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 proposed but not enacted.

AB 493 would have implemented 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 proposed but not enacted.

AB 493 would have implemented 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: Fully implemented.

Social Services 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 an improvement on previous years' performance. In 2012 Social Services doubled this output by completing 18 county licensing reviews (two of these reviews were scheduled for completion in December 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: Partially implemented.

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. We examined Social Services' monthly reports displaying overdue on-site reviews and found that the number of overdue five-year inspections of foster homes, foster family agencies, and group homes was higher in 2012 than it was when we conducted our audit. Specifically, we found 120 of these licensees were overdue for visits in February 2012. Although the number declined to 75 by December 2012, this still exceeds what we found during our audit.

The department indicates that 20 of these overdue visits relate to closed facilities and another 11 have been visited. However, the department has not been able to update this information in its database because of ongoing system upgrades.

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: No action taken.

Social Services disagrees with this recommendation because it believes situations requiring a report are already defined. Social Services stated that it sent in September 2012 a notice to all counties reminding them of reporting requirements.

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: Fully implemented.

Social Services sent a May 2012 notice to all counties reminding them of the conditions that warrant cross reporting to appropriate law enforcement agencies. Social Services determined that CWS/CMS currently has the capability to be used to track compliance with these reporting requirements.

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: No action taken.

➲ 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 October 2014. 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: No action taken.

➲ 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. 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: No action taken.

➲ Social Services indicated that a workgroup has identified potential locations in CWS/CMS that can be modified to provide a consistent location to input and track placement justifications. However, the department stated the earliest that these changes could occur, due to funding constraints and

other priorities, is in fall 2013. Moreover, Assembly Bill 1697, as amended in March 2012, would have required Social Services to designate a separate field in CWS/CMS for county CWS agencies to record reasons for placing a child with a foster family agency or group home and would have required a CWS agency to file this information in the system when a placement is made. However, this bill was not enacted during the 2011–12 Legislative Session.

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: No action taken.

See Social Services' response under Recommendation 2.1.c.

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: Fully 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.

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 it agrees with the recommendation and a department committee is working with county representatives to determine the best way to provide this information alongside existing measures.

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: Fully implemented.

Social Services stated that it continues to monitor Alameda's performance on this measure. Social Services asserted that Alameda made progress last calendar year on case worker visits, meeting or exceeding the 90 percent threshold in all but two 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: Fully implemented.

Social Services released, in September 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 (AB 1440), as amended in March 2012, would have required each county CWS agency to conduct a formal child death review and would also have required counties to submit death review reports to Social Services. AB 1440 was not enacted during the 2011–12 Legislative Session.

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: No action taken.

➲ 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 released in September 2012 encouraging 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, AB 1440 would have implemented our recommendation by requiring county CWS agencies to submit death reviews to Social Services and by requiring Social Services to include in its annual report information on whether county CWS agencies completed formal death reviews. AB 1440 was not enacted during the 2011–12 Legislative Session.

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: Partially implemented.

Social Services released a September 2012 letter to county CWS agencies encouraging them to use information gathered from death reviews in their county self-assessments. However, the department did not indicate that it revised its instructions related to its outcome review process.

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: Fully implemented.

Social Services reported that this recommendation was fully implemented and identified various actions taken by Fresno and Sacramento counties in response to recommendations resulting from their respective child death reviews.

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: Fully implemented.

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. Social Services issued a notice in September 2012 to all counties encouraging them to do so.

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: No action taken.

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. AB 1440 would have required Social Services to enhance its annual report to include the information we suggested. However, AB 1440 was not enacted during the 2011–12 Legislative Session.