

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 9. REPORT OF CHILD ABUSE**

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

The Department of Justice (DOJ) proposes to amend sections 900, 901, 902, 903, 904, 905, and 906 of title 11, division 1, chapter 9 of the California Code of Regulations (CCR), to adhere to changes to the Child Abuse Neglect and Reporting Act (CANRA). Any change to the CANRA directly impacts DOJ's administration of the Child Abuse Central Index (CACI).

Effective January 1, 2012, Assembly Bill (AB) 717, Chapter 468, Statutes of 2011, amended the CANRA by limiting agencies authorized to submit CACI reports to county child welfare and probation departments. The chaptered legislation also limited the abuse determination maintained in the CACI to substantiated reports and required the removal of any person listed in the CACI who has reached 100 years of age.

Effective January 1, 2013, AB 1707, Chapter 848, Statutes of 2012, further amended the CANRA to require, ten years from the incident date resulting in the CACI listing, the removal of any person who was listed in the CACI prior to reaching 18 years of age, if the person is listed only once with no subsequent listings.

The applicable sections of the CCR have not yet been updated to reflect these statutory changes. The proposed rulemaking serves to formally codify the requirements that DOJ already implements as required by CANRA.

Additionally, the Department of Social Services has asked DOJ to provide guidance to the reporting agencies regarding the fields that must be filled out in order to deem a Child Abuse or Severe Neglect Indexing Form, BCIA 8583 (Rev. 06/2024), complete.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed amendments will help protect children by ensuring better compliance with CANRA.

Additionally, by clarifying the procedures and requirements for the CACI reports and information, the proposed regulations will provide the public a general understanding of the statutorily required roles and responsibilities of those agencies involved in investigating allegations of child abuse or severe neglect, submitting reports to the CACI, and disclosing CACI information.

The proposal will also improve the reliability of CACI background checks. When submitting agencies follow the proposal and fill out the BCIA 8583 accurately and completely, these reports can then be entered in the CACI and be used in CACI background check responses to ensure that individuals who were suspected of child abuse and severe neglect are not placed in positions to serve vulnerable populations.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

Article 1. Administration of the Child Abuse Central Index

§ 900. Scope.

This section deleted based on previous comments from the Office of Administrative Law that scope sections be deleted as they are non-substantive.

§ 901. Form Required for Submitting Report of Known or Suspected Child Abuse or Severe Neglect.

The title of this section was amended to include “Known or” before “Suspected.” This amendment is necessary for consistency with the statute.

This section was amended to include the updated statutory requirement that only substantiated reports must be submitted. These changes were necessary because they ensure the regulations conform to existing law, Penal Code section 11169, which mandates the submitting agency to ensure substantiated cases submitted to DOJ have been investigated, and to ensure accuracy and completeness of the report(s) submitted. The section also incorporates the new BCIA 8583 form.

BCIA 8583

DOJ requires the information on the BCIA 8583 and subdivision (a)(1)(i) to be fully complete because that information specifies the reporting investigating agency and type of abuse, both of which are required to ensure that the agency submitting the report is an authorized agency and the abuse is the type to be reported to the CACI. Agency information is also required so DOJ can contact the agency if the BCIA 8583 is not complete. Also, DOJ includes the agency contact information in response to CACI background checks so the requestor can verify the listing in the CACI. Agencies must identify a report as an initial or amended report because DOJ will then know the appropriate steps to take, such as adding or deleting a listing. The report date is necessary because that matches the agency’s report date, and will help match their case record if they need to verify listings in response to employment checks or submit subsequent amendments. The incident date is necessary because, under Penal Code section 11169, DOJ is required to delete a suspect from the CACI if they were a minor, had no other listings in the CACI, and 10 years has passed since the incident date. Without incident date, DOJ couldn’t perform its statutory duty to delete these individuals from CACI.

Additionally, the agency information, agency report number or case name, incident date, and abuse type are necessary because if an agency submits an amended report, these fields are used

by DOJ to identify and match the amended report with the original report and take appropriate action based on the amended report, such as deleting or updating the entry.

DOJ requires victim information on the BCIA 8583 and subdivision (a)(1)(ii) because it is required under the CANRA and DOJ must supply that information to authorized requestors, such as to out-of-state law enforcement agencies under Penal Code section 11170, subdivision (d). Additionally, DOJ needs the information in case a victim asks to remove themselves from the CACI under Penal Code section 11170, subdivision (g).

DOJ requires suspect information on the BCIA 8583 and subdivision (a)(1)(iii) because it is required under the CANRA and DOJ must conduct CACI background checks to see if there is a possible match to a suspect listed in the CACI. DOJ requires the least amount of information necessary for identifying a suspect via the name, date of birth and approximate age, gender, and relationship to victim, in order to comply with its duty to respond to CACI background checks. Since requestors of CACI background checks need to verify the listing with the reporting agency, the minimal suspect information is necessary for the reporting agency to match the information with the agency's investigative file.

DOJ includes additional optional information on the BCIA 8583 and under subdivision (a)(2) because that information will help improve the accuracy of responses to CACI background checks, for instance, by matching race, driver's license numbers, or social security numbers from the CACI report and the background check request. However, DOJ recognizes that not all suspects will have a driver license or social security number, or that the information would be known to the reporting agency, and thus, does not require these fields be complete for each CACI report submission. Additionally, because the BCIA 8583 is a summary report of the reporting agency's investigative file, DOJ allows reporting agencies to include information about other individuals that are related to the investigation, such as witnesses, caregivers, reporters, etc.

Further, DOJ also allows the agency to report whether the abuse resulted in the victim's death, because under the CANRA, DOJ must provide this reported information to other agencies. DOJ also allows agencies to report whether the victim is developmentally disabled because external entities may need such data for investigative purposes or statistical analysis.

BCIA 8583 includes a privacy notice because Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided on any form used to collect personal information from individuals. DOJ has determined this is necessary to ensure compliance with Civil Code section 1798.17.

Subdivision (b) was removed to delete and repeal the previous BCIA 8583 form and its instructions within the regulations. The form was amended because inconclusive reports of abuse or neglect or no longer entered into the CACI. This amendment was necessary because the form was updated and incorporated in the section, and guidance for the completion of the BCIA 8583 is added to section 902.

The section was non-substantively amended to update the citations in the Authority and Reference section.

§ 902. Responsibilities of Agencies Submitting Reporting Form.

This section was amended to reflect statutory changes for submission of CACI reports and changes to retention requirements. These changes were necessary because the submitting agencies are statutorily required to ensure the accuracy, completeness, and retention of reports submitted to the CACI, and to notify DOJ of changes in findings of reports previously submitted. This change is necessary to reflect statutory requirements and modifications to the statutory authority cited.

Specifically, subdivision (a) was amended to specify the required form for submitting reports, the BCIA 8583, and to include new paragraphs (1) and (2) to list what fields are required to be considered a complete BCIA 8583, and conversely, which fields are not required to be considered a complete BCIA 8583.

New subdivision (b) was added so that reporting agencies will know what happens when they submit an incomplete report, and that resubmitting a fully complete form is mandatory for entry in the CACI. Informing reporting agencies of their statutory obligation to fully complete a report when they receive a returned report is necessary to ensure compliance with the statute. Having the reporting agencies correctly submit fully completed reports ensures the information in the CACI is reliable for CACI background check responses. Additionally, this holds submitting agencies accountable for the accuracy and completeness of reports pursuant to Penal Code section 11170.

New subdivision (c) was added to specify that only one suspect can be listed per BCIA 8583, requiring a separate BCIA 8583 for each additional suspect. This was necessary because suspects are listed separately in CACI.

Subdivision (d), formerly subdivision (b), was amended to match current CANRA requirements that only substantiated reports are submitted to the CACI, and that if a report is later changed to inconclusive or unfounded, the reporting agency must submit an amended BCIA 8583. This amendment is necessary to ensure that the CACI only contains reports required by law.

Subdivision (e), formerly subdivision (c), was amended to match current CANRA requirements that only substantiated reports are submitted to the CACI. Inconclusive reports are no longer included in the CACI. The required retention of the investigative files was also amended to match current CANRA requirements. This amendment is necessary to ensure that the CACI and the agencies only maintain files as required by law.

Subdivision (f), formerly subdivision (d), and this section were non-substantively amended to change tense, add or delete “the” before CANRA, DOJ, and CACI, replace individuals with persons, add the word subdivision to conform to style requirements, plurality agreements, renumbering, and add commas. The Authority and Reference section was also revised to update the citations.

§ 903. Entities Authorized to Access CACI Information May Not Make Determinations Based Solely on the CACI Listing.

This section was revised to comply with statutory changes that require all reports submitted into the CACI to be designated substantiated.

The proposed changes are necessary to comply with the CANRA and because authorized agencies utilize the CACI to locate prior reports detailing investigations of known or suspected child abuse or severe neglect. Any agency receiving information from the CACI is responsible for reviewing the underlying investigative report(s) from the agency submitting the BCIA 8583, and making an independent assessment regarding the merits of the agency's findings.

The section was non-substantively revised to delete incomplete statutory language, add "the" before CACI, replace an individual with a person, change tense, correct a citation, and add a plurality. The Authority and Reference section was non-substantively amended to update the citations.

§ 904. DOJ Notification When a Submitting Agency Provides Names Identified in Existing CACI Entries.

This section was amended to conform to the CANRA's changes that only substantiated types of reports may be submitted and included in the CACI. Subdivision (b) was deleted because inconclusive reports of abuse or neglect are no longer included in the CACI. Section 904 is necessary because it informs submitting agencies and prosecutors about the actions DOJ will take upon receiving a completed BCIA 8583 that includes a suspect or victim whose name matches one in the CACI.

The section was non-substantively revised to add and delete "the," renumbering, change tense, and plurality agreements. The Authority and Reference section was non-substantively amended to update the citations.

§ 905. Releasing CACI Information in Response to Inquiries From Authorized Entities.

Subdivision (a) was revised to incorporate the Request For Child Abuse Central Index (CACI) Search, BCIA 4084 (Rev. 06/2024), and to update how the BCIA 4084 can be accessed. The proposed changes are necessary to update the version of the form and specify the process for authorized agencies to request CACI information. The information contained in the CACI is confidential and will only be disclosed to those individuals or agencies authorized by law to receive it. An agency conducting an ongoing investigation of known or suspected child abuse or severe neglect may request, and shall be provided, the CACI information regarding prior investigations by the same or other agencies before completing its current ongoing investigation. Requests must be made on the BCIA 4084.

BCIA 4084

DOJ included its contact information and additional instructions for after hours, holidays, and weekends requests to facilitate a timely response because CACI background checks are for limited but important purposes, such as placement of children, or investigations of abuse. Requiring the form to be typed instead of handwritten makes the form easier to read and understand, ensuring a faster and accurate response to these CACI background checks.

Section 1 of the BCIA 4084 is necessary for DOJ to ensure that the agency and agency requestor are authorized to receive CACI information. Their contact information is necessary in case DOJ has any questions regarding the request. A fax number is necessary for DOJ to provide the response and is a faster method of communication than mail.

Section 2 of the BCIA 4084 requires the requestor to indicate the purpose and statutory authorization to receive CACI information by checking the appropriate box. It also requires a certification and signature of the requestor. This information is necessary for DOJ to track the request and confirm the requestor is authorized to receive the information. Additionally, the certification is necessary to educate the requestor of their duties to notify the individual of the search and verify the CACI listing before making a determination based on the information. CACI background checks are not verified by fingerprints, so it is possible that an individual who is the subject of a CACI background check has the same name and birth date as someone listed in the CACI, although that report of abuse does not relate to them. Having the requesting agency verify the listing with the reporting agency helps ensure that they do not make a decision based on incomplete information, which could further harm a child by not being placed in an emergency situation, even though the subject of the search was not the individual that was listed in the CACI.

Section 3 of the BCIA 4084 requires the requestor to provide the information regarding the subject of the CACI background check. The name and alias, date of birth, social security number, driver's license number, and prior counties of residence help DOJ search the CACI and determine if there is a possible match. The information requested in BCIA 4084 mirrors the same information requested on the BCIA 8583 that reporting agencies use to submit the reports so that DOJ can search the CACI. DOJ only indicates if there is no match or a possible match, but does not verify the match, because CACI background checks are not fingerprint based and individuals may have the same name and date of birth.

BCIA 4084 includes a privacy notice because Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided on any form used to collect personal information from individuals. DOJ has determined this is necessary to ensure compliance with Civil Code section 1798.17.

Subdivision (b) was revised to incorporate the Child Abuse Central Index (CACI) Inquiry Request for Out-Of-State Foster Care & Adoption Agencies, BCIA 4057 (Rev. 06/2024), and to include how the BCIA 4057 can be accessed. This subdivision was further revised to specify the process for authorized agencies to request CACI information. The information contained in the CACI is confidential and will only be disclosed to those individuals or agencies authorized by

law to receive it. This subdivision was also revised to clarify the adoption or child placement applies to both in and out-of-state requests, which conforms to federal law. Additionally, subdivision (b) was revised to include language requiring a live scan because these types of inquiries also require criminal history checks, which must be required simultaneously and via live scan. Out-of-state applicants are not able to use live scan, and thus this section sets forth the form and process to follow in those instances.

BCIA 4057

DOJ includes the authority for the CACI background checks for out-of-state agencies to ensure that only eligible entities are requesting the checks, because information in the CACI is protected from disclosure except for limited but important purposes, such as the placement of children. DOJ also includes the fees, its contact information, and instructions for filling out this form to ensure that it can quickly provide a response by ensuring the requesting agency provides all required information, the fees are paid, and the form is legible.

DOJ has set the \$15 fee because it is the maximum amount allowed by statute, despite DOJ's reasonable and actual costs for processing and responding to such requests being higher. Handling CACI requests involves entirely manual processes. DOJ receives the requests in hard copy, requiring staff to open and log each one, review and verify that the requesting entity qualifies under Penal Code section 11170, manually search the CACI for responsive information (including aliases), analyze the results to confirm applicability to the individual, and provide the relevant information if available. Staff must also complete the BCIA 4057, log the response, and send it to the requesting entity. It takes approximately half an hour to handle each request. These tasks are performed by staff in the Program Technician II classification, costing DOJ approximately \$184,753 annually to process and respond to these requests.

BCIA 4057 also includes a certification and signature of the requestor. This information and the certification is necessary because it helps ensure that the requestor understands they can only request the information if they are authorized under federal law to receive the information.

BCIA 4057 requires the requesting agency to provide its contact information and the inquiry type. This information is necessary to ensure that the agency and requestor have a right to receive CACI information. Their contact information must be provided in case DOJ has any questions regarding the request, and so they can provide the response.

BCIA 4057 requires the requestor to provide information regarding the subject of the CACI background check. The name and alias, date of birth, social security number, driver's license number, and previous California residences help DOJ search the CACI and determine if there is a possible match. The information requested in BCIA 4057 mirrors the information requested on the BCIA 8583 that reporting agencies use to submit the reports so that DOJ can search the CACI.

BCIA 4057 includes the only responses DOJ will provide in response to this type of CACI background check, which is whether there is no match or a possible match, but does not verify the match, because CACI background checks are not fingerprint-based and individuals may have

the same name and date of birth. Where there is a possible match, DOJ informs the requestor of their duties to notify the individual of the search and verify the listing in the CACI with the reporting agency before making a determination based on the information. CACI background checks are not verified by fingerprints, so it is possible that an individual who is the subject of a CACI background check has the same name and birth date as someone listed in the CACI, although that report of abuse does not relate to them. Having the requesting agency verify the listing with the reporting agency helps ensure that they do not make a decision based on incomplete information, which could further harm a child by not being placed in an emergency situation, even though the subject of the search was not the individual that was listed in the CACI.

BCIA 4057 includes a privacy notice because Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided on any form used to collect personal information from individuals. DOJ has determined this is necessary to ensure compliance with Civil Code section 1798.17.

The section was non-substantively revised to add “the,” replace “individuals” with “persons,” and remove “severe”. The Authority and Reference section was non-substantively amended to update the citations.

§ 906. Disclosure of CACI Information To Members of the Public.

This section was revised to reflect modifications to the statutory authority cited, clarify DOJ reporting responsibilities to victim or suspect inquiries regarding their CACI status, and provide the general public with directions for removing their names and information from the CACI if they are a victim 18 years of age or older.

Specifically, subdivision (a) was revised to incorporate Child Abuse Central Index (CACI) Self Inquiry Request, BCIA 4056 (Rev. 11/2024), for use when an individual wants to determine if they are listed in the CACI and where the form is located. When DOJ receives a BCIA 4056 from an individual who wants to determine if they are listed in the CACI, and the inquiry results in a possible match to a suspect or victim listed in the CACI, subdivision (a) also describes that DOJ will notify the person in writing whether they are listed in the CACI as a suspect or victim and provide the name of the submitting agency and the date of the report. The revisions to subdivision (a) are necessary to align with the statutory requirements and provide guidance to individuals who want to determine if they are in the CACI by providing them with the form to use, where to access it, and what to expect from DOJ in response.

BCIA 4056

BCIA 4056 explains the legal authority and instructions for how an individual must complete and submit a self-inquiry request to DOJ. DOJ included a notary requirement in order to have someone verify that the individual making the request has provided identification that they are that person. Taking steps to ensure the individual’s identity has been verified is necessary because DOJ can only disclose CACI information to certain people and agencies, for limited purposes. DOJ requests the individual complete the form to the best of their ability and to

provide the individual's name, address, personal information, aliases, and previous California residences so that it can compare entries in the CACI in order to provide a response. These fields mirror the same fields in BCIA 8583 that are submitted by agencies making the reports.

BCIA 4056 includes a privacy notice. Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided on any form used to collect personal information from individuals. DOJ has determined this is necessary to ensure compliance with Civil Code section 1798.17

Subdivision (b) was non-substantively reordered to subdivision (c) and amended to change the formatting and remove subdivision (b)(1) and include it instead in the subdivision text. This change was necessary to conform to the format of other DOJ regulations and because a separate paragraph was not required. Additionally, this subdivision was amended to specify that unlike new subdivision (b) where the local agencies determine whether individuals are listed in the CACI, where an individual is over 18 and was listed in the CACI only as a minor victim, they may request the deletion from the CACI and DOJ will process those requests.

Subdivision (c) was non-substantively reordered to subdivision (b).

The section was non-substantively revised to add and delete "the," replace "on" with "in" when referring to placement "in the CACI," and update the corresponding article for grammatical agreement, and the Authority and Reference section was non-substantively amended to update the citations.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

DOJ concludes:

- (1) It is unlikely that the proposal will create or eliminate jobs within the state because the amendments affect only the reports and information contained within the CACI, agencies responsible for submitting the reports, and the role of the agencies and DOJ. They also make clarifying changes that align the regulations with existing statute.
- (2) It is unlikely that the proposal will create new businesses or eliminate existing businesses within the state because the regulations are being requested to reflect statutory changes to the CANRA, which do not have an impact on California businesses.
- (3) It is unlikely that the proposal will result in the expansion of businesses currently doing business within the state because the regulations are being requested to reflect statutory changes to the CANRA, which do not have an impact on California businesses.

DOJ also concludes that:

- (1) The proposal will benefit the health and welfare of California residents by improving the reliability of CACI background checks. When submitting agencies follow the proposal and fill out the BCIA 8583 accurately and completely, these reports can then be entered in the CACI and

used to ensure that individuals who were suspected of child abuse and severe neglect are not placed in positions to serve vulnerable populations. Additionally, the proposal will benefit the health and welfare of California residents whose information is required to be purged from the CACI.

(2) The proposal will not benefit worker safety because it does not regulate working conditions.

(3) The proposal will not benefit the state's environment because it is unrelated to environmental protection.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

DOJ did not rely on any technical, theoretical, or empirical studies, reports or similar documents in proposing these regulations.

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

DOJ has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states. The regulations affect only those individuals listed in the CACI as a result of the reporting requirements in Penal Code section 11169. DOJ found no evidence, facts, documents, or testimony to indicate any significant negative impact on businesses. This determination is based on the fact that there are no substantial private sector costs associated with complying with the proposed regulations, and there have been no identified financial implications for California businesses. As there are no new requirements in this proposed regulatory action that would be imposed on a California business, there will be no adverse economic impact directly affecting California business. Entities that rely on CACI background checks in their hiring practices will benefit from more accurate and complete CACI entries that may result from the local agency compliance with the regulations.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

DOJ determines that these proposed regulations do not affect small businesses.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

DOJ finds that no alternatives were presented to, or considered by, DOJ that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations.

Performance Standard as Alternative:

After thorough consideration, DOJ has concluded that the mandates or prescriptive standards are crucial for ensuring complete adherence to the statute and achieving the intended goals of the CANRA, including the submission of reports and CACI background check responses. The proposed revisions are indispensable in upholding consistency, precision, and efficiency in the reporting obligations as outlined in the CANRA.