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SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

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13 COUNTY OF HUMBOLDT

15 **THE PEOPLE OF THE STATE OF**
16 **CALIFORNIA ex. rel. XAVIER**
17 **BECERRA, ATTORNEY GENERAL OF**
18 **THE STATE OF CALIFORNIA,**

Plaintiff,

19 v.

20 **HUMBOLDT COUNTY DEPARTMENT**
21 **OF HEALTH AND HUMAN SERVICES;**
22 **CONNIE BECK, IN HER OFFICIAL**
23 **CAPACITY AS DIRECTOR; HUMBOLDT**
24 **COUNTY SHERIFF'S OFFICE; WILLIAM**
HONSAL, IN HIS OFFICIAL CAPACITY AS
SHERIFF,

Defendants.

Case No.

CV 180143

**PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR INJUNCTIVE
RELIEF**

1 The People of the State of California, by and through Xavier Becerra, Attorney General of
2 the State of California (“Plaintiff”), allege on information and belief as follows:

3 INTRODUCTION

4 The State of California has a compelling interest in preventing and detecting child abuse
5 and neglect. To that end, the Legislature has created two comprehensive statutory schemes to
6 protect the State’s children. These child protection systems are of vital importance to the State’s
7 interest in ensuring the safety and welfare of its most vulnerable citizens. California’s Child
8 Abuse and Neglect Reporting Act, Penal Code section 11164 et seq. (“CANRA”), is the State’s
9 “mandatory reporting” law that functions as the gateway to identifying potential victims of child
10 abuse and neglect. The purpose of CANRA is to protect children by mandating the reporting of
11 child abuse and neglect and ensuring the investigation of every report through increased
12 communication and information-sharing among child protective agencies. CANRA imposes two
13 important sets of obligations. First, CANRA designates certain professionals, known as
14 “mandated reporters,” who are required to report suspected or known child abuse or neglect to
15 child protective agencies. Second, child protective agencies—local child welfare and law
16 enforcement agencies—are required to accept all such reports and ensure that every single one
17 (regardless of whether the reporter is “mandated” or not) is screened, cross-reported, coordinated,
18 and investigated in a timely manner. The Welfare & Institutions Code and its implementing
19 regulations, known as “Division 31” regulations, work in tandem with CANRA, providing
20 detailed requirements for social workers relating to the assessment of reports and the subsequent
21 investigation thereof. Mandated reporters and child protective agencies must comply with their
22 respective duties for the system to work as intended by the Legislature.

23 In 2015, Plaintiff became aware of concerns that Humboldt County’s Department of
24 Health and Human Services—Child Welfare Services division (“CWS”) and Sheriff’s Office
25 (collectively, “Defendants”), were not always receiving, responding to, and investigating reports
26 of child abuse and neglect as required by the applicable statutes. Because of the serious nature of
27 such concerns, the Attorney General of the State of California authorized an investigation to
28 determine whether Defendants were complying with CANRA and related provisions of the

1 Welfare & Institutions Code. The investigation revealed that Defendants had not sufficiently
2 complied with their legal duties to respond to reports of child abuse and neglect, resulting in
3 reports falling through the cracks and widespread distrust within the community.

4 Plaintiff recognizes the difficult nature of child protective work and the significant
5 challenges that child welfare workers and law enforcement officers are faced with day-to-day,
6 with limited resources. But noncompliance with child protection laws can lead to devastating
7 consequences for the affected children and their families. Recognizing the need to have a
8 properly functioning system, the parties have worked cooperatively to come to an agreement on
9 substantial changes to the mandated reporter system and how child abuse and neglect reports are
10 handled in Humboldt County. Plaintiff now seeks an order requiring Defendants to comply with
11 their mandated duties and implement necessary reforms to ensure that compliance continues.
12 Thus, Plaintiff respectfully requests that the Court enter Judgment as set forth in the proposed
13 Stipulated Judgment, concurrently filed with this Complaint.

14 **PARTIES**

15 1. Plaintiff Xavier Becerra is the Attorney General of the State of California and the
16 chief law officer of the State. (Cal. Const., art. V, § 13.) As the head of the Department of
17 Justice, the Attorney General has the duty to ensure that the State's laws are uniformly and
18 adequately enforced for the protection of public rights and interests. (*Ibid.*; Gov. Code, §§ 12510,
19 15000.) The Attorney General "has broad powers derived from the common law, and in the
20 absence of legislative restriction, has the power to file any civil action or proceeding directly
21 involving the rights and interests of the state, or which he deems necessary for the enforcement of
22 the laws of the state, the preservation of order, and the protection of public rights and interests."
23 (*Pierce v. Superior* (1934) 1 Cal.2d 759, 761-762.) The Attorney General may enforce the laws
24 of the State by petitioning for a writ of mandate for an individual or entity to comply with the
25 laws of the State. (*See Camp v. Bd. of Supervisors* (1981) 123 Cal.App.3d 334, 353.) The
26 Department of Justice has statutory enforcement and regulatory authority under CANRA and as
27 such, has promulgated regulations relating to reports of child abuse. (See Pen. Code, §§ 11169,
28 11170, 11174, 11174.1; Cal. Code Regs., tit. 11, ch. 9, § 900 et seq.)

24/7 Emergency Response System

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2 8. A child welfare agency's emergency response system is the first point of contact
3 for the majority of reports relating to child abuse or neglect coming from the community. The
4 system is designed to ensure that all such reports are promptly and accurately evaluated by a
5 social worker to determine whether a child is in imminent danger in his or her own home. It must
6 function according to law for child protective agencies to become aware of potential child abuse
7 or neglect in the first instance.

8 9. Defendant CWS, however, did not have an emergency response system in place
9 that was available 24 hours a day, seven days a week, to receive, accept, and screen reports of
10 child abuse and neglect. During business hours, CWS screeners were not always available to take
11 reports by telephone. Mandated reporters and other persons who tried to make reports were often
12 unable to reach screeners and instead told to leave messages. Reporters would sometimes not
13 receive a call back for days, weeks, or months, if at all. There was also no attempt to triage calls
14 by ascertaining whether the report involved an emergency situation or imminent harm to the
15 child. CWS's response time was even more delayed after hours, on weekends, and during
16 holidays, because there was no mechanism in place to ensure that reports received during such
17 times were handled promptly, or at all, by an on-call social worker. As a result of CWS's
18 message-taking system, reporters described having to repeatedly call or try to contact CWS in
19 other ways in order for their reports to be received. When reports were received, they were not
20 always assessed by CWS screeners appropriately in accordance with the screening criteria and
21 response decisions were not always supported by the narrative description of the reports.

22 10. Defendant Sheriff's Office did not have policies or procedures in place to ensure
23 that all reports received were investigated promptly and that reports that fell outside of its
24 geographical jurisdiction were transferred to the appropriate agency. As a result, in some
25 instances, deputies did not respond to reports from the community, investigations were delayed,
26 and reporters who tried to make reports that may have fallen outside of the Sheriff's Office's
27 jurisdiction were told it was the wrong agency and reports were not taken.

1 **Cross-Reporting and Coordination Between Agencies**

2 11. Child protective agencies must coordinate the handling of reports of child abuse or
3 neglect with each other. When either agency receives a report, it must be cross-reported
4 immediately, or as soon as practicably possible, subject only to exceptions that apply to certain
5 types of reports. Cross-reporting and coordination are crucial elements of CANRA intended to
6 ensure that no children fall through the cracks and that every single report is investigated in a
7 timely manner by child welfare agencies, law enforcement agencies, or both.

8 12. Defendants, however, did not implement cooperative arrangements regarding the
9 handling of reports, including how cross-reports are exchanged among them and how to conduct
10 joint responses, if required. Defendants made some efforts to discuss coordination, but until
11 recently, there was no written agreement or agreed-upon arrangement.

12 13. Furthermore, as a result of deficient policies and procedures and a fundamental
13 misunderstanding of when cross-reports must be made, Defendants did not timely cross-report all
14 reports of child abuse or neglect to each other, resulting in cross-reports being ignored for days
15 and in some cases, even weeks. The main method by which agencies exchanged cross-reports
16 was by facsimile ("fax"). Fax machines, however, were only monitored during business hours.
17 During the investigation, Defendant CWS had a practice of faxing cross-reports from the week
18 late each Friday afternoon, thus resulting in many cross-reports being made in an untimely
19 manner.

20 14. Though Defendant Sheriff's Office was aware of CWS's practice of faxing cross-
21 reports each week on Friday afternoon, it failed to put in place a system to ensure that all cross-
22 reports from CWS were timely reviewed, such that some cross-reports, including those requesting
23 emergency responses, which were faxed to the Sheriff's Office after business hours or on
24 weekends were not reviewed until the following business day or after the weekend. In many
25 instances, cross-reports from the Sheriff's Office to other agencies like CWS were also untimely
26 and in some cases, not made until the conclusion of an investigation.

1 coordinate the handling of reports. After months of negotiations, the parties have come to an
2 extensive agreement on a long-term plan to address the violations raised by the investigation, as
3 set forth in the proposed Stipulated Judgment.

4 **CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **Writ of Mandate—Code Civ. Proc. § 1085**
7 **(Violation of Penal Code § 11165.9)**
8 **(Against Defendants CWS and Sheriff’s Office)**

9 19. Plaintiff realleges all paragraphs set forth above and incorporates them by
10 reference as though they were fully set forth in this cause of action.

11 20. Plaintiff is a beneficially interested party entitled to a peremptory writ of mandate
12 to “compel the performance of an act which the law specially enjoins.” (Code Civ. Proc., §
13 1085.)

14 21. Penal Code section 11165.9 requires county welfare and law enforcement agencies
15 to accept all reports of suspected child abuse and neglect from any person, whether that person is
16 “mandated” or not. Agencies cannot refuse to accept a report, even if it falls outside their
17 geographical or subject matter jurisdiction.

18 22. Defendant Sheriff’s Office has not complied with its clear, present, and
19 ministerial duty to accept all reports, including those outside its geographical jurisdiction.

20 23. Defendant CWS has not complied with its clear, present, and ministerial duty to
21 ensure that an emergency response system is in place to accept reports at all times.

22 24. Plaintiff has no plain, speedy, or adequate remedy at law except by way of this
23 petition for writ of mandate.

24 25. The Court must issue a writ of mandate directing Defendants to comply fully with
25 Penal Code section 11165.9.

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FOURTH CAUSE OF ACTION
Writ of Mandate—Code Civ. Proc. § 1085
(Violation of Penal Code § 11166.3, subdivision (a))
(Against Defendants CWS and Sheriff's Office)

39. Plaintiff realleges all paragraphs set forth above and incorporates them by reference as though they were fully set forth in this cause of action.

40. Plaintiff is a beneficially interested party entitled to a peremptory writ of mandate to “compel the performance of an act which the law specially enjoins.” (Code Civ. Proc., § 1085.)

41. Penal Code section 11166.3, subdivision (a), requires county welfare and law enforcement agencies to “develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases.” Law enforcement agencies must investigate all reports within its jurisdiction and report to the county welfare or probation department that it is investigating the case within 36 hours of starting an investigation.

42. Defendants have not complied with their clear, present, and ministerial duties to create cooperative arrangements relating to the handling of child abuse and neglect reports.

43. Defendant Sheriff's Office has not complied with its clear, present, and ministerial duty to investigate all reports in a timely manner.

44. Plaintiff has no plain, speedy, or adequate remedy at law except by way of this petition for writ of mandate.

45. The Court must issue a writ of mandate directing Defendants to comply fully with Penal Code section 11166.3, subdivision (a).

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PRAYER FOR RELIEF

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WHEREFORE, Plaintiff respectfully prays that the Court enter judgment against Defendants as follows:

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1. For the Court to issue a writ of mandate directing Defendants to fully comply with CANRA, and specifically Penal Code sections 11165.9, 11166, subdivisions (j) and (k), and

1 11166.3, and Welfare & Institutions Code sections 16051, subdivision (f), 16504, and Division 31
2 regulations;

3 2. For the Court to issue an order prohibiting Defendants from engaging in the
4 practices challenged in this Complaint, requiring Defendants to implement the injunctive relief
5 provisions as set forth in the proposed Stipulated Judgment and entering final judgment;

6 3. For the Court to exercise continuing jurisdiction over this action to ensure that
7 Defendants comply with the writ of mandate of this Court and the judgment as set forth in the
8 proposed Stipulated Judgment;

9 4. For such other and further relief as the Court deems just and proper.

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11 Dated: February 13, 2018

Respectfully Submitted,

12 XAVIER BECERRA
13 Attorney General of California

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16 CHRISTINE CHUANG
17 Deputy Attorney General
18 *Attorneys for* THE PEOPLE OF THE
19 STATE OF CALIFORNIA
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