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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

RENE CASTILLO,
Plaintiff,
v.
COUNTY OF LOS ANGELES and
DOES 1-10,
Defendant.

Case No. 2:12-cv-02760 ODW (JEMx)

**ORDER DENYING MOTION FOR
SUMMARY JUDGMENT [56]**

“Because it is my name! Because I cannot have another in my life . . .
How may I live without my name? I have given you my soul; leave me
my name!”
—Arthur Miller, *The Crucible*

This case is about the reputational value of an individual’s name, and to what extent an individual has a right to request a hearing to contest governmentally imposed blemishes against his name. Plaintiff Rene Castillo contends that the County of Los Angeles violated his constitutional rights by including him in a California statewide child-abuse database without providing an opportunity to challenge his

1 inclusion in the database. The County responds that Castillo need not be provided an
2 opportunity to challenge his inclusion because the database at issue is not publicly
3 accessible, and in any event Castillo has not demonstrated any damage to his
4 reputation. But the County fails to establish that branding Castillo as a child abuser
5 and included him in a non-public (but nevertheless widely accessed) database and
6 withholding the right to contest that inclusion does not deprive Castillo of a
7 constitutionally protected interest. The Court therefore **DENIES** the County's
8 Motion.¹

9 I. BACKGROUND

10 On September 14, 2011, the father of Castillo's girlfriend's minor child, "M,"
11 reported Castillo to the County of Los Angeles Department of Children and Family
12 Services ("DCFS") for allegedly abusing Child M. (SUF 1; Weissburg Decl. Ex. 4.)
13 Following an investigation, the DCFS determined the allegation to be "inconclusive."
14 (SUF 3.) An "inconclusive report" means that the investigator determined the report
15 "not to be unfounded," but nevertheless found the evidence insufficient to determine
16 whether child abuse or neglect has occurred. Cal. Penal Code § 11165.12.

17 On November 15, 2011, Castillo received a letter from DCFS stating that he
18 had been reported to the California Department of Justice's Child Abuse Central Index
19 ("CACI") database, noting that DCFS's investigation was "inconclusive for sex abuse
20 of Child M." (Castillo Decl. ¶ 17.) Information on the CACI database is made
21 available to a broad range of third parties for a variety of purposes. (*See* SUF 39.)

22 Also in November 2011, Castillo learned that the DCFS had also recorded the
23 report of alleged child abuse, its record of the investigation, and its "inconclusive"
24 determination in the State of California's Child Welfare Services Case Management
25 System ("CWS/CMS"). (Castillo Decl. ¶ 21; *see* Mot. 5.) The CWS/CMS database is

26
27 ¹ The Court deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.
28 D. Cal. L. R. 7-15.

1 a statewide system containing child- and family-specific case files for reference by
2 child-welfare service workers. (SUF 17.) Unlike CACI, the CWS/CMS database is
3 confidential and generally not subject to public disclosure. (SUF 33.) Nevertheless,
4 CWS/CMS is accessible on a limited basis by several in- and out-of-state agencies.
5 (SGD 33.)

6 Shortly after learning he had been included in the CACI and CWS/CMS
7 databases, Castillo called a DCFS appeals manager to request a due-process hearing to
8 challenge his inclusion on those databases. (Castillo Decl. ¶ 21.) That manager
9 informed Castillo that there was no legal mechanism to challenge his inclusion in the
10 CACI database because Castillo was not Child M’s parent, guardian, relative, or
11 primary caregiver. (*Id.*) He also informed Castillo that there was no way to appeal his
12 inclusion in CWS/CMS “because there is no law or statute that mandates the right to a
13 hearing by the County.” (Castillo Decl. ¶ 23.)

14 As of January 1, 2012 (following the passage of Assembly Bill 717), only
15 investigations with “substantiated” findings were to be reported to the DOJ, and all
16 reports with “inconclusive” findings were to be purged from CACI. (SUF 6.)
17 Accordingly, Castillo received a letter in January 2012 indicating that he would be
18 removed from the CACI database and was therefore not entitled to a hearing to
19 dispute his inclusion in CACI. (Castillo Decl. ¶ 28.) The letter did not, however,
20 address Castillo’s inclusion on the CWS/CMS database. (*Id.*)

21 Castillo testifies that he is considering adopting or obtaining guardianship of his
22 half-brother. (Castillo Decl. ¶ 31.) Based on his investigation into the requirements to
23 obtain guardianship or adopt a child in Los Angeles County, Castillo is concerned that
24 his inclusion on the CWS/CMS system will stymie his ability to do so.² (Castillo
25

26 ² Castillo also testifies that “Adoptions Social Workers told [him] that [he] will not be approved to
27 adopt a child in California, due to [his] inclusion in CWS/CMS.” (Castillo Decl. ¶ 32.) The Court
28 **SUSTAINS** the County’s objection that this testimony is inadmissible hearsay.

1 Decl. ¶ 32.) Castillo also believes he is at risk of no longer being eligible to continue
2 volunteering for organizations that work with children if he remains in CWS/CMS.³
3 (*Id.*)

4 The County’s motion turns on whether its failure to provide Castillo an
5 opportunity to contest his inclusion in CWS/CMS deprived him of his constitutional
6 right to due process. The State of California Department of Social Services has taken
7 the position that it will not impose a due-process requirement upon counties to provide
8 notice and an opportunity for a hearing before entering inconclusive allegations into
9 the CWS/CMS database. (SUF 9, 27.) The Court proceeds to consider whether
10 Castillo can establish that this position violates his due-process rights.

11 II. LEGAL STANDARD

12 Summary judgment should be granted if there are no genuine issues of material
13 fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ.
14 P. 56(c). The moving party bears the initial burden of establishing the absence of a
15 genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323–24 (1986).
16 Once the moving party has met its burden, the nonmoving party must go beyond the
17 pleadings and identify specific facts through admissible evidence that show a genuine
18 issue for trial. *Id.*; Fed. R. Civ. P. 56(c). Conclusory or speculative testimony in
19 affidavits and moving papers is insufficient to raise genuine issues of fact and defeat
20 summary judgment. *Thornhill’s Publ’g Co. v. GTE Corp.*, 594 F.2d 730, 738 (9th
21 Cir. 1979).

22 III. DISCUSSION

23 Castillo contends that the County has violated his due-process rights guaranteed
24 under the Fifth and Fourteenth Amendments by failing to offer any due-process
25

26 ³ The Court likewise **SUSTAINS** the County’s hearsay objection with respect to Castillo’s testimony
27 that Dr. Fuchs “advised [Castillo] to do everything possible to clear [his] name.” (Castillo Decl.
28 ¶ 33.)

1 mechanism for review of inconclusive child-abuse allegations and concomitant
2 inclusion on the CWS/CMS database. (Compl. ¶ 25.) Castillo also claims he suffered
3 an unconstitutional violation of his right to privacy. (*Id.*)

4 To establish a prima facie case under 42 U.S.C. § 1983, Castillo must establish
5 that (1) the conduct he complains of was committed by a person acting under color of
6 state law; and (2) that conduct violated a right secured by the Constitution and laws of
7 the United States. *West v. Atkins*, 487 U.S. 42, 48 (1988). Castillo’s listing on the
8 CWS/CMS database unquestionably occurs under color of state law. *See Humphries*
9 *v. Cnty. of L.A.*, 554 F.3d 1170, 1184 (9th Cir. 2008) (finding that inclusion on the
10 CACI database occurs under color of state law), *rev’d on other grounds*, 131 S. Ct.
11 447 (2010). Therefore, the question here is whether Castillo’s inclusion in the
12 CWS/CMS database without being afforded a right to contest his inclusion violated a
13 right secured by the Constitution and laws of the United States.

14 It is undisputed that the County did not provide Castillo an opportunity to
15 contest his inclusion in CWS/CMS. (SUF 8.) Yet the deprivation of a
16 constitutionally protected interest “is not itself unconstitutional; what is
17 unconstitutional is the deprivation of such an interest *without due process of law.*”
18 *Zinermon v. Burch*, 494 U.S. 113, 125 (1990). To prove a deprivation without due
19 process of law, Castillo must show that (1) the County has interfered with his liberty
20 or property interest, and (2) “the procedures attendant upon that deprivation were
21 constitutionally” insufficient. *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460
22 (1989). The Court addresses each in turn.

23 **A. Castillo’s liberty or property interests**

24 An individual’s liberty interest may be implicated “where a person’s good
25 name, reputation, honor, or integrity is at stake because of what the government is
26 doing to him.” *Wisconsin v. Constantineau*, 400 U.S. 433, 437 (1971). But
27 procedural due-process protections apply to reputational harm only when individuals
28 suffer stigma from governmental action *plus* the alteration or extinguishment of rights

1 or status recognized by state law. *Paul v. Davis*, 424 U.S. 693, 711 (1976). This is
2 known as the “stigma-plus” test. *See Hart v. Parks*, 450 F.3d 1059, 1070 (9th Cir.
3 2006).

4 In *Humphries v County of Los Angeles*, the Ninth Circuit determined that
5 inclusion in CACI without being afforded “some kind of hearing” to contest inclusion
6 was enough to satisfy the stigma-plus test. 554 F.3d at 1201. For the reasons that
7 follow, the Court finds the CACI and CWS/CMS databases are sufficiently analogous
8 to warrant a finding under *Humphries’s* reasoning that Castillo’s inclusion in the
9 CWS/CMS database without a due-process mechanism for challenging that inclusion
10 meets the stigma-plus test.

11 *1. Stigma*

12 The first step in the procedural due-process analysis is to determine whether
13 Castillo suffered stigma from the County’s action of listing him in CWS/CMS. In
14 *Humphries*, the Ninth Circuit found that “being labeled a child abuser by being placed
15 on the CACI is unquestionably stigmatizing.” 554 F.3d at 1186 (internal quotation
16 marks omitted). Given the common aims of the CACI and CWS/CMS databases, the
17 same conclusion is warranted here.

18 The Child Abuse and Neglect Reporting Act (“CANRA”), Cal. Penal Code
19 §§ 11164–11174.3, mandates that various statutorily enumerated individuals report
20 instances of known or suspected child abuse and neglect either to a law-enforcement
21 agency or to a child-welfare agency. These agencies are then required to conduct “an
22 active investigation,” *id.* § 11169(a), which involves investigating the allegation and
23 determining whether the incident is “substantiated, inconclusive, or unfounded.” Cal.
24 Code Regs. tit. 11, § 901(a). CANRA further directs that the California DOJ “shall
25 maintain an index of all reports of child abuse and severe neglect submitted pursuant
26 to” this process, but “only information from reports that are reported as substantiated
27 shall be filed.” Cal. Penal Code § 11170(a)(1)–(3).

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1 The information in the CACI database is “available to a broad range of third
2 parties for a variety of purposes,” including persons “making inquiries for purposes of
3 pre-employment background investigations for peace officers, child care licensing or
4 employment, adoption, or child placement.” *Humphries*, 554 F.3d at 1177.
5 Additionally, numerous state statutes mandate that licensing agencies search the CACI
6 database and conduct an additional investigation prior to granting a number of rights
7 and benefits. *Id.* at 1187–88. CACI’s sole purpose “is to alert legislatively identified
8 licensing and similar agencies of possible matches between applicants about whom
9 abuse investigations were performed where investigative dispositions other than
10 unfounded were made.” (Trimarchi Decl. Ex. A., at 3.)

11 The CWS/CMS database appears to serve a similar, if more limited, function.
12 CWS/CMS “enables case workers to record and update assessments, create and
13 maintain case plans, and manage the placement of children in the appropriate foster
14 homes or facilities . . . [it] also collects data for the purposes of state, county, and
15 federal reporting” (*Id.*) Indeed, CWS/CMS includes “a complete record of all
16 contacts and actions undertaken” with regard to an investigation of a suspected child
17 abuser, and “comprises a centralized statewide system that allows state or county child
18 welfare workers to share information on child welfare cases with legislatively
19 authorized entities.” (*Id.* at 3–4.) Thus, not only does CWS/CMS bear similarities to
20 CACI, it also goes beyond CACI’s purpose merely serving as an index of names of
21 suspected child abusers by providing access to the entire record of an agency’s
22 investigation.

23 The County is correct that various statutes, regulations, and blanket orders
24 significantly limit disclosure of information in the CWS/CMS database—much more
25 so than they do for CACI. (Mot. 11–12.) Indeed, “[e]xternal access to CWS/CMS is
26 highly restricted.” Trimarchi Decl. Ex. A., at 4. But while the information in
27 CWS/CMS is not *publicly* available, many exceptions exist to the provisions
28 governing the confidentiality of the information. Specifically, information included in

1 CWS/CMS is available—without a court order—to numerous in-state and out-of state
2 governmental entities and agencies, including counties, child-welfare agencies, law
3 enforcement, family law court, county counsels’ offices, other states and their
4 agencies, prosecutors, and welfare agencies. Cal. Welf. & Inst. Code §§ 827, 10850;
5 Cal. Penal Code § 11167.5. California Welfare and Institutions Code section 827
6 alone contains sixteen enumerated exceptions to confidentiality. For example, section
7 827(a)(1)(I) provides an exception for “The State Department of Social Services, to
8 carry out its duties pursuant to . . . the Family Code to oversee and monitor child
9 welfare agencies, children in foster care or receiving foster care assistance, and out-of-
10 state placements.”

11 Delving deeper into only one of these exceptions, the Court notes that
12 California Family Code section 7901, Article 3, subsection (c) provides that “[a]ny
13 public officer or agency . . . in receipt of [written notice of the intention to send, bring,
14 or place a child in the receiving state] . . . may request of the sending agency . . . *and*
15 *shall be entitled to receive therefrom*, supporting or additional information as it may
16 deem necessary under the circumstances” (emphasis added). When determining
17 whether to proceed with an adoption, out-of-state adoption agencies would
18 conceivably want to know—and heavily weigh—the fact that an individual seeking to
19 adopt was accused of child abuse in another state. Under this exception, such
20 agencies are *entitled* to the information contained in CWS/CMS.

21 These exceptions for disclosure of CWS/CMS information demonstrate that
22 even if the information is not listed in a publicly available registry like CACI, being
23 listed in CWS/CMS with an “inconclusive” report of child abuse can still damage an
24 individual’s reputation in the eyes of various agencies. The Court therefore concludes
25 that this reputational damage is sufficient to constitute stigma. *Humphries*, 554 F.3d
26 at 1186; *Miller v. California*, 355 F.3d 1172, 1178 (9th Cir. 2004).

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1 2. *Plus*

2 The second inquiry in the procedural due-process analysis is whether the stigma
3 of Castillo’s inclusion in CWS/CMS has distinctly altered, extinguished, or placed a
4 tangible burden on a right or status previously recognized by state law. *Paul*, 424
5 U.S. at 711; *Humphries*, 554 F.3d at 1188.

6 In *Humphries*, the Ninth Circuit held that the County had placed a tangible
7 burden on *Humphries*’s rights in two ways: (1) by mandating that various agencies
8 search the CACI index prior to granting a number of rights and benefits, and (2) by
9 making information in CACI available to other identified agencies, including out-of-
10 state agencies making foster care or adoptive decisions. *Humphries*, 554 F.3d at 1188.
11 It noted that the mere listing in a child abuse database is sufficient to alter an
12 individual’s right or status because child abuse databases “play[] an integral role in
13 obtaining many rights under California law, including . . . licenses, volunteer
14 opportunities, and even child custody.” *Humphries*, 554 F.3d at 1179.

15 The same reasoning is applicable here. As addressed above, information in the
16 CWS/CMS database, while generally confidential vis-à-vis the public, is available
17 without a court order to a variety of state agencies, including the Department of Social
18 Services. Castillo has testified that he is concerned about being unable to adopt or
19 obtain guardianship over his half-brother and to continue volunteering with children
20 as a result of his inclusion in CWS/CMS. (Castillo Decl. ¶¶ 31, 33–38.) Given that
21 his inclusion in CWS/CMS will likely have serious implications with regard to
22 adoption and licensure in these areas, his concerns are reasonably founded. Castillo’s
23 testimony therefore suggests that his inclusion in CWS/CMS has the potential to
24 stigmatize him and impede his ability to obtain legal rights.

25 The mere fact that Castillo’s determination was “inconclusive” (as opposed to
26 “substantiated”) makes no difference with regard to the violation of his rights,
27 including the right to “informational privacy.” In California, the right to informational
28 privacy “includes interests in precluding the dissemination or misuse of sensitive and

1 confidential information.” *Burt v. Cnty. of Orange*, 120 Cal. App. 4th 273, 285
2 (2004). This right is implicated by inclusion in CWS/CMS, as Castillo has a
3 reasonable expectation of privacy and the County’s inclusion of Castillo in a database
4 where the information therein is disseminated to multiple agencies amounts to a
5 serious invasion of his privacy.

6 Importantly, nothing in CANRA prevents a submitting agency from enacting
7 some procedure permitting individuals to challenge their listing or to seek to have
8 their report deemed “unfounded.” In fact, individuals who were the subject of a child-
9 abuse investigation that was determined to be “substantiated” are *entitled* to a due-
10 process hearing before the agency that requested his or her inclusion in the CACI
11 database. Cal. Penal Code § 11169(d). There appears to be no statutory barrier to a
12 similar mechanism for inconclusive listings.

13 Viewing the evidence in a light most favorable to Castillo, the Court finds that
14 the County simply hasn’t met its burden on summary judgment to show that Castillo’s
15 individual liberty interests are not at all implicated by his inability to challenge his
16 inclusion on the CWS/CMS database. Thus, the Court proceeds to consider whether
17 the procedural safeguards of Castillo’s liberty interest are constitutionally insufficient
18 to protect his rights. *Thompson*, 490 U.S. at 460.

19 **B. The government’s procedural safeguards**

20 The Fourteenth Amendment of the United States Constitution guarantees that,
21 “No State shall . . . deprive any person of life, liberty, or property, without due process
22 of law” “[F]reedom from arbitrary adjudicative procedures is a substantive
23 element of one’s liberty,” and due-process safeguards must be analyzed accordingly.
24 *People v. Ramirez*, 25 Cal. 3d 260, 268 (1979).

25 Procedural due process is analyzed case-by-case based on the totality of the
26 circumstances. *California ex rel. Lockyer v. F.E.R.C.*, 329 F.3d 700, 711 (9th Cir.
27 2003). The process provided to persons included in the CWS/CMS database must be
28 evaluated using the three-part test set out in *Matthews v. Eldridge*, 424 U.S. 319, 335

1 (1976). This test instructs courts to balance (1) the private interest affected by the
2 official action; (2) the risk of erroneous deprivation and the probable value of
3 additional procedural safeguards; and (3) the governmental interest, including the
4 fiscal and administrative burdens of additional procedures. *Id.*

5 *1. Private Interest*

6 Castillo’s argument in support of his private interest at stake is analogous to his
7 argument in support of his liberty interest. Castillo has “an interest in pursuing . . .
8 adoption, seeking to obtain custody of . . . children, and securing the appropriate
9 licenses for working with children without having to be subject to an additional
10 investigation, delays, and possible denial of a benefit under California law.”
11 *Humphries*, 554 F.3d at 1193. This element clearly weighs in favor of Castillo. In
12 fact, Castillo testified that he is considering pursuing several of these exact endeavors,
13 and is concerned that his inclusion in CWS/CMS will impede his ability to do so.
14 Castillo’s interest is clearly threatened by the stigmatizing effect of a potentially
15 erroneous listing on a child-abuse database maintained by the government. *Id.*

16 *2. Governmental Interest*

17 California has a vital interest in preventing child abuse, and the creation or
18 maintenance of a centralized database is a responsible means for California to secure
19 its interest. *See Santoski v. Kramer*, 455 U.S. 745, 766 (1982); *People v. Stockton*
20 *Pregnancy Control Med. Clinic*, 203 Cal. App. 3d 225, 249 (1988) (finding the goals
21 of detecting and preventing child abuse are a “compelling” government interest).
22 California has a justifiable interest in maintaining even “inconclusive” reports, since
23 these reports “can reveal patterns that might not otherwise be detected and can be
24 useful to law enforcement.” *Humphries*, 554 F.3d at 1194. But if this system contains
25 either incorrect or outright false information, the system’s effectiveness and accuracy
26 are lessened, and California’s interest in maintaining the system is severely
27 diminished. *Id.*

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1 Granting individuals listed in CWS/CMS an additional procedure by which they
2 can challenge their listing will no doubt impose additional administrative and fiscal
3 burdens on California, but these burdens are generally “the sort of administrative costs
4 that we expect our government to shoulder.” *Id.* Without providing “some sort of
5 hearing,” there is a substantial risk that California will deprive innocent individuals of
6 their “reputation-plus” by maintaining their files in CWS/CMS. *Id.* at 1195. The
7 likely potential that intrastate and interstate agencies will come to rely on Castillo’s
8 “inconclusive” listing in the CWS/CMS database as evidence “that some sort of crime
9 did occur,” without affording him an adequate opportunity to contest that listing, is
10 inherently unjust.

11 *3. Balancing*

12 *Matthews* requires that the Court consider the risk of error in light of the
13 government’s and Castillo’s interests. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529
14 (2004). Again, strong parallels can be drawn to the *Humphries* decision. There, as
15 here, the state’s interest was “not harmed by a system which seeks to clear those
16 falsely accused of child abuse from the state’s databases. CANRA creates too great a
17 risk of individuals being placed on the [CWS/CMS database] who do not belong
18 there, and then remaining on the [database] indefinitely.” *Humphries*, 554 F.3d at
19 1200.

20 This Court does not intend to impede law enforcement’s ability to conduct full
21 investigations of child-abuse allegations. Without a doubt, these difficult and
22 intrusive investigations are a necessity in the society we live in. But while mere
23 maintenance of investigatory files for child-abuse allegations doesn’t raise concerns
24 under the Due Process Clause, “[w]hat California has done is not just maintain a
25 central investigatory file, but attach legal consequences to the mere listing in such
26 files” without allowing for the person listed to challenge his inclusion. *Id.* at 1201.

27 Under the totality of the circumstances, the risk of including false positives in
28 the CWS/CMS database and distributing that information to other agencies (even if

1 not the public) is too great for the County to deny the individuals included in the
2 database their constitutional right to due process. Although the severity and extent of
3 the legal consequences to the *Humphries* plaintiffs may have been greater, Castillo's
4 rights and benefits are nevertheless implicated here by his inclusion in the CWS/CMS
5 database.

6 The Court therefore finds that the County has not established that the
7 procedural safeguards on Castillo's liberty interests are sufficient to protect his rights.

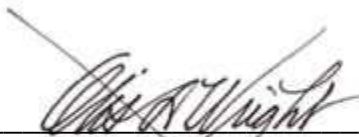
8 **IV. CONCLUSION**

9 Because the County of Los Angeles has failed to meet its initial burden of
10 establishing the absence of a genuine issue of material fact for trial, the Court
11 **DENIES** the County's motion for summary judgment.

12 In light of the Court's ruling, the Court **ORDERS** the parties to contact
13 Magistrate Judge McDermott forthwith to schedule a further mediation to be held as
14 soon as practicable. The parties shall file a joint mediation status report no later than
15 August 5, 2013, to apprise the Court of the scheduled mediation date.

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18 **IT IS SO ORDERED.**

19 July 31, 2013

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22 **OTIS D. WRIGHT II**
23 **UNITED STATES DISTRICT JUDGE**