



# PROTOCOL

## Third Party Allegations

### OVERVIEW

When an allegation of child abuse or neglect is made to the county child abuse hotline, the screener assesses if the allegation made meets the definition of abuse or neglect. Child abuse and neglect are defined in Penal Code (PC) Section 11165.6 and Manual of Policies and Procedures (MPP) Section 31-002(c)(9) and 31-002(n)(1). Under PC Section 11165.6, child abuse or neglect can be **inflicted by any person**. As required by MPP Section 31-101.3, counties shall respond to all referrals for service alleging that a child is endangered by abuse or neglect by completing the Emergency Response (ER) Protocol or conducting an in-person investigation immediately or within ten days. This protocol addresses allegations of abuse and/or neglect against **a third party, or someone other than the parent or guardian**.

Per ACL 17-85 from the State of California Department of Social Services, when conducting assessments and investigations the social worker should assess **all household members as defined by SDM, as well as any additional person who has significant in-home contact with the child**. Thus, the social worker should be assessing the potential risk to child safety by **all individuals living in, as well as having significant access to, the household, regardless of their relationship to the child**.

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### DEFINITIONS (Per SDM)

**Active Investigation-** Is an investigation performed by child welfare that at a minimum, assesses the nature and seriousness of the known or suspected abuse including: conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available; gathering and preserving evidence; determining whether the incident is substantiated, inconclusive, or unfounded; and preparing a report that will be retained in the files of the investigating agency.

**CACI-** (also known as the Child Abuse Central Index), is a state index of investigated reports related to **substantiated** cases of physical abuse, sexual abuse, mental/emotional abuse, and/or severe neglect of a child. The index is used by state and local agencies to help protect the health and safety of California's children.

**Caregiver-** An adult, parent or legal guardian in the household who provides care or supervision for the child.

**Cross Report-** Duty by child welfare, based on State of California Penal Code § 11166, to immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in §11165.6.

**In-The-Household-** (also known as Known Perpetrator), All persons who have significant in-home contact with the child, including those who have a familial or intimate relationship with any person in the home.

This may include persons who have an intimate relationship with a parent in the household (boyfriend or girlfriend) but may not physically live in the home or a relative where the legal parent allows the relative authority in parenting and caregiving decisions.

**Legal Guardian-** A person who has the legal authority and duty to care for a child.

**SDM Hotline Tool-** Is the safety assessment tool used at the screening level to determine:

- Whether a referral meets the statutory threshold for an in-person CWS response;
- If not, whether a referral to an alternative community response is appropriate; and
- If so, how quickly to respond and the path of response.

**Unknown Perpetrator-** (also known as Not-In-The-Household), Alleged perpetrator of child abuse/neglect that is considered **not** to be 'in-the-household' such as a; tutor, coach, or babysitter. It does not mean the name and or relationship of the perpetrator is unknown. Rather, the name and relationship may be known it just assumes the alleged perpetrator does not have an ongoing familial relationship with the child and is not involved in caring or providing extended supervision of the child.

## **POLICY**

Children and Family Services does not authorize any social worker to conduct interviews on any 'unknown' perpetrators. Interviews on 'known' perpetrators may be conducted, but with caution and supervisor knowledge as with all alleged perpetrators. All 'unknown' third party referrals sent to the district must be brought to that district's Disposition (Dispo.) Review Meeting as soon as is possible for further discussion on how to proceed with the investigation. In order to substantiate any third party allegation, **an 'active investigation' must be completed and the referral brought back to**

**your district Dispo. meeting to ensure the investigation meets the legal requirement for submission to CACI.** When substantiating a third-party allegation on an unknown perpetrator please use corroborating evidence from the law enforcement's investigation report and document in the Investigation Narrative as well as in your delivered service log contact notes. Be sure to highlight from the police report any interviews conducted and conclusions made on the unknown suspects.

## **PROCEDURES**

### **SCREENING:**

**STEP 1** Take the report of the third-party allegation and determine safety concerns using the SDM Hotline tool, then complete RID and Screener Narrative, including Provisional Harm Statement. **Ensure two allegations are written.** First one is always for parent(s)/guardian(s), whomever has custody of the child. It should be written as Neglect, Failure-To-Protect. The second allegation is for the third-party, based on type of indicated abuse. Also, indicate in the allegation any known information of the third party (ie. name, relationship) and if they are considered to be 'In-The-Household' or not.

Eg. 01/01/2019: Allegation of General Neglect, Failure to Protect, to 7 y/o Justine Smith, 2 y/o Jay Smith and 2 month old Crissy Smith by mother, Jane Smith. Allegation of Physical Abuse to 7 y/o Justine Smith by boyfriend of mother, Joe Testing. Mr. Testing is not residing in the home.

**STEP 2** Create client notebook for third-party. If the perpetrator's first and/or last name is not known please follow the naming convention of first name as type of relation and last name as last name of perpetrator. If you only know the first name then reverse the convention by entering first name of the perpetrator and last name as type of relation.

For example, if abuse occurred by mom's boyfriend John Smith then enter

**first name (boyfriend)**  
**last name (smith)**

Next, enter any other information that is available for the client. Please enter how the perpetrator is related to the child(ren) in the related clients tab of the notebook using the drop down menu.

For a boyfriend/girlfriend of the parent and they are residing in the home you can select from the drop-down menu 'live-in' as the relation type.

If the perpetrator is not living in the home, but has significant contact as is not related select 'other relation.'

**STEP 3** Complete all clearances, cross-report to law enforcement as necessary and to licensing if applicable. Then, flag it as a third-party allegation and if the perpetrator is in-the-household or not (aka 'known' or 'unknown' perp) before sending to Screening Supervisor.

**STEP 4** Screening Supervisor will review referral with ER Supervisor to discuss the Active Investigation that is needed and if LE is involved or not, if not already known.

EMERGENCY RESPONSE:

**If, Law Enforcement (LE) is involved and requests CFS to cease any interviewing of victims/suspects then:**

**Note:** Below procedures focus on the third-party allegation, not the allegation against the parent(s). For the allegation against the parent(s), please follow normal investigative procedures.

**STEP 1** Determine if it is a '**known**' or '**unknown**' third party referral then;

-If it is an 'unknown' third party allegation **bring referral to Dispo. Review Meeting ASAP.** Then, based on Dispo. team recommendation go to **Complete Active Investigation;**

**OR**

-If it is a 'known' third party allegation go to **Complete Active Investigation;**

Complete **Active Investigation (AI)** by:

- 1) Reviewing referral in detail.
- 2) Assess safety of child(ren) per SDM-If needed, based on safety concerns place children in protective custody and file petition. (DO NOT INTERVIEW ANY SUSPECTS/VICTIMS)
- 3) Reach out to LE investigator to ensure point of contact is made and LE is aware of CFS investigation status as well as child(ren)'s whereabouts
- 4) Update Client Notebook for third-party
- 5) Enter all contact notes related to steps taken to complete the AI, including LE request to stand down.
- 6) Complete Investigation Narrative, Petition (if promoting)
- 7) Cross Report to LE, CCL and Licensing (if applicable)
- 8) Once the \*LE Investigation is complete determine if any interviews can be conducted with victims and/or suspects

**(In-The-Household only-‘Known’ Perpetrators)** then update contact notes. If LE investigation & report will not be complete before 30 days of referral assignment please consult with your supervisor on closure.

\*Please request from LE, the completed LE investigation report making sure the report and photos that are emailed or faxed are legible and clear. Once it is retrieved put in the case file. Also, add to the IN and your contact notes any information from the LE report on suspect interviews as well as any conclusions drawn from the investigation. Any interview after LE has completed their investigation with a ‘known’ third-party suspect must be approved by a direct supervisor. LE assistance should be considered as well. **No interviews are permitted with ‘unknown’ third party perpetrators.**

STEP 2 Determine \*conclusion to allegation against third party perpetrator based on your Active Investigation (following normal ER procedures for allegation against the parent(s)), then

- 1) Complete Investigation Narrative
- 2) Enter any remaining contact notes making sure to be as detailed as possible, especially, if the perpetrator was not interviewed
- 3) Request to close out referral.

\*If substantiating allegation on third-party, ensure **STEP 1 has been accurately completed** AND that you have Dispo approval on a reportable offense before sending to CACI.

**Note-** If substantiating on a third party and before you send to CACI you must Dispo the referral again even if you initially brought the referral to Dispo Review. This is to ensure all steps have been completed and the Active Investigation meets the legal requirement.

**If, Law Enforcement is not involved then:**

**Note:** Below procedures focus on the third-party allegation, not the allegation against the parent(s). For the allegation against the parent(s), please follow normal investigative procedures.

STEP 1 Determine if it is a ‘known’ or ‘unknown’ third party referral then;

-If it is an ‘unknown’ third party allegation **bring referral to Dispo. Review Meeting ASAP.** Then, based on Dispo. team recommendation go to **Complete Active Investigation;**

**OR**

-If it is a 'known' third party allegation go to **Complete Active Investigation;**

**Complete Active Investigation by;**

- 1) Reviewing referral in detail
- 2) Assessing safety of child(ren) by conducting interview(s)
- 3) **\*Conduct interviews** (if applicable and with SWS approval) with suspects including parent(s), third-party (in-the-household only) and any witnesses
- 4) If needed based on SDM safety concerns, place children in protective custody and file petition.
- 5) Update Client Notebook for third-party
- 6) Complete Investigation Narrative, Petition (if promoting)
- 7) Cross Report to LE, CCL and Licensing (if applicable)
- 8) Enter all contact notes related to steps taken to complete the AI, especially efforts to interview the suspect(s) and reasons if an interview did not occur.

\*Any interview with a 'known' third-party suspect must be approved by a direct supervisor. LE assistance should be considered as well. **No interviews are permitted with 'unknown' third party perpetrators.**

STEP 2 Determine \*conclusion to allegation against third party perpetrator based on your Active Investigation (following normal ER procedures for allegation against the parent(s)), then

- 1) Complete Investigation Narrative
- 2) Enter any remaining contact notes making sure to be as detailed as possible, especially, if the perpetrator was not interviewed
- 3) Request to close out referral.

\*If substantiating allegation on third-party, ensure **STEP 1 has been accurately completed** AND that you have Dispo approval on a reportable offense before sending to CACI.

**Note-** If substantiating on a third party and before you send to CACI you must Dispo the referral again even if you initially brought the referral to Dispo Review. This is to ensure all steps have been completed and the Active Investigation meets the legal requirement.

**RECORD'S RELEASE:**

**Referrals, Investigative Narratives, case records, and any other information contained in the CFS case file on the child/family is confidential and cannot be disclosed without a court order.**

If a third-party perpetrator does appear at any county CFS office requesting release of information or asking questions about the referral, investigation, CACI submission, etc...please refer them to Juvenile Dependency Court to request release of (redacted versions) case records through an 827 Motion. You can also refer them to the Discovery Unit at (925) 602-9288.

### **NON-PARENT MINOR PERPETRATORS:**

Circumstances may arise where the abuse or neglect occurs within the home, but the perpetrator is a non-parent under the age of 18 (age 17 and younger). The Screener must still assess any referral indicating a possible failure or inability to protect involving the parent that places the child at risk. When determining whether to create a referral and investigate both Screening Worker and ER Worker consider several factors including, but not limited to, the following:

- The relationship between the perpetrator and the victim.
- The ages and developmental levels of the perpetrator and victim.
- Whether the action constitutes developmentally normal behavior (i.e., sexual exploration between two pre-school aged children, or physical aggression between siblings, if the behavior was not extreme and the parents responded appropriately).
- If the perpetrator has the developmental ability and capacity to understand the gravity of his or her actions or acted with willful disregard to the danger, pain or fear of the other child.
- The severity and frequency of the alleged abuse.
- If the action negatively affects the long-term safety and well-being of either child.

If, after considering such factors, it is determined that an investigation be conducted per SDM then regular third-party allegation procedures should be followed.

### **RESOURCES**

SDM DM31-907  
Confidentiality DM31-503  
Reporting to the DOJ Child Abuse Central Index DM31-501.1

### **REFERENCES**

ACL 17-85, Assessing & Investigating Referrals Third Party Perpetrators of Child Abuse or Neglect.