

## NOTICE OF RULE MAKING

Pursuant to A.C.A. § 9-28-103, the Division of Children and Family Services (DCFS) Director proposes revisions to the Division policies below to provide additional guidance to staff regarding child maltreatment investigations. These revisions include:

- Policy II-D: Investigation of Child Maltreatment Reports
  - To more clearly outline child maltreatment investigation interview requirements per A.C.A. § 12-18-605;
  - To provide clarification to existing practices regarding actions in protection plans and accompanying dependency-neglect petitions;
  - To specify requirements for protection plans in place for more than 30 days per A.C.A. § 12-18-1001 and case plan requirements for any dependency-neglect petition filed with the court per A.C.A. § 9-27-402.
- Policy II-F: Team Decision Making
  - To standardize the timeframe in which a Team Decision Making Meeting must be held ;
  - To add references to requirement to formally reassess protection plans within 30 days per A.C.A. § 12- 18-1001; and,
  - To clarify existing referral criteria and meeting logistics.
- Policy VII-K: Maltreatment Allegations Made in Out-of-Home Placements
  - To provide more guidance regarding implementing corrective action plans for foster homes;
  - To formalize the role of the Resource Family Review Committee.

The proposed changes are available for review at the Division of Children and Family Services, Policy Unit, 5<sup>th</sup> floor Donaghey Plaza South, 7<sup>th</sup> and Main Streets, Little Rock, AR. 72203-1437. All comments must be submitted in writing to the Policy Unit no later than October 13, 2018. All the proposed changes may be viewed in their entirety at

<https://ardhs.sharepointsite.net/CW/Notice%20of%20Rule%20Making/Forms/AllItems.aspx>.

If you need this material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 501- 682-8830 (Voice) or 501- 682-1442 (TDD). The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to age, religion, disability, political affiliation, veteran status, sex, race, color or national origin. 4501829309

## POLICY II-D: Investigation of Child Maltreatment Reports

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### OVERVIEW

All reports of known or suspected child maltreatment are promptly investigated and immediate steps are taken to protect a maltreated child and any other child under the care of the same alleged offender who may also be in danger of maltreatment. The health and safety of the child are always of paramount concern.

While the Division of Children and Family Services (DCFS) is responsible for ensuring the health and safety of children in Arkansas, the Arkansas State Police Crimes Against Children Division (CACD) collaborates with DCFS to conduct investigations of child maltreatment allegations. DCFS and CACD will assess Priority I and Priority II referrals as outlined in the "Agreement Between the Department of Human Services and the Arkansas State Police," which is posted on CHRIS Net and is subject to renewal annually. To determine the individual responsibilities and operational protocol of the two agencies, see the specifics of the agreement. The agreement is written in accordance with Act 586 of 2007, the Governor's Executive Order, and all applicable federal and state laws.

DCFS and CACD, as appropriate, will issue notices regarding child maltreatment allegations to all persons pursuant to § A.C.A. 12-18-501 et seq. The Division will issue notices in such a way as to ensure the rights to due process of the alleged offender and to protect others who may be at risk of harm from the alleged offender. For more information on child maltreatment notices, see Policy XIV-A: Notices Regarding Child Maltreatment and related procedures.

### INVESTIGATION INITIATION TIMEFRAMES

All Priority I investigations will begin no later than 24 hours after receipt of a report by the Hotline, excluding:

- A. An allegation of sexual abuse if the most recent allegation of sexual abuse was more than one year ago; or,
- B. An allegation of sexual abuse if alleged victim does not currently have contact with the alleged offender.

While an allegation that a child has been subjected to neglect as defined by Garrett's Law § 12-18-103(143)(B) is defined as a Priority II investigation, all Garrett's Law investigations must also be initiated within 24 hours after receipt of a report by the Hotline per A.C.A. § 12-18-602(b)(2)(B).

All other child maltreatment investigations reports will begin within 72 hours after receipt of a report by the Hotline. Investigations are considered initiated when, as age appropriate, the investigator conducts a face-to-face interview with the alleged victim outside the presence of the alleged offender or observes the alleged victim outside the presence of the alleged offender, or the investigator has otherwise met due diligence (see Procedure II-D3 for more information). Once the investigation has begun, the primary focus will be to determine whether or not the alleged offender has access to the child and whether the child or any other children as well as any elderly persons or individuals with a disability or mental illness with whom the alleged offender works are at risk such that they need to be protected.

### NOTICE OF ALLEGATION

The investigative agency at the local level is responsible for providing the notice of allegation to all applicable parties as outlined in Procedure XIV-A1: Notices of Allegations of Child Maltreatment.

### AT RISK DETERMINATIONS

Upon initiation the investigative agency must determine:

- A. Alleged offender's employer, including the physical address;

- B. Alleged offender's job duties at his employment; and,
- C. Alleged offender's supervisor.

In addition to gathering the information above, the investigative agency must also gather any other necessary information to determine if the alleged offender:

- A. Works with children or is otherwise engaged in paid or volunteer child-related activities;
- B. Works with the elderly;
- C. Works with an individual with a disability or mental illness; or,
- D. Is a juvenile (and therefore has access to other juveniles in a school or similar setting).

If so, the investigative agency must immediately ascertain the name and address of the person in charge of those activities. The investigative agency must then immediately determine whether or not children, the elderly, or individuals with disabilities or mental illness under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender.

The investigative agency supervisor and Area Director (as applicable) may consult with [the Office of Chief Counsel \(OCC\)PLS](#) as necessary, prior to making a determination as to whether children, the elderly, or individuals with disabilities or mental illness appear to be at risk. If the investigative agency determines children, the elderly, or individuals with disabilities or mental illness under the care of the alleged offender are at risk of maltreatment by the alleged offender, then the investigative agency may notify the people and/or entities listed below of the hotline report if the DCFS Director or designee approves the at risk determination and gives written approval to the investigative agency to provide notifications of the at risk determination to:

- A. The alleged offender's employer;
- B. The school superintendent, principal, or a person in an equivalent position where the alleged offender is employed;
- C. The person in charge of a paid or volunteer activity; and,
- D. The appropriate licensing or registering authority to the extent necessary to carry out its official responsibilities.

See Procedure XIV-A2 for number of notification form and other specific instructions regarding providing at risk notifications to the persons and/or entities listed above.

The "at risk" determination will be changed immediately if, upon further investigation, it is determined the children under the care of the alleged offender are not at risk. See Procedure XIV-A3 for more information.

#### OVERALL INVESTIGATION GOALS

During the investigation of an allegation of child maltreatment, and if the alleged offender is a family member, or lives in the home of the alleged victim, the assigned investigative agency will conduct an investigation to determine:

- A. The existence, cause, nature and extent of child maltreatment with particular attention to any of the Arkansas Health and Safety factors that may be present. The Arkansas Health and Safety Factors are:
  - 1) Caretaker's behavior toward child is violent or out of control.
  - 2) Caretaker describes or acts towards the child in predominantly negative terms or has extremely unrealistic expectations.
  - 3) Caretaker caused serious physical injury to child or made plausible threat to cause severe physical injury.
  - 4) Caretaker's explanation for injury is unconvincing.
  - 5) Family refuses access to child there is reason to believe that family is about to flee, or child's whereabouts cannot be ascertained.
  - 6) Caretaker has not, cannot, or will not provide supervision necessary to protect child from potentially dangerous harm.
  - 7) Caretaker is unwilling or unable to meet child's needs for food, clothing, shelter, and/or medical or mental health care.

- 8) Child is fearful of caretaker, other family members, or other people living in or having access to the home.
  - 9) Child's physical living conditions are hazardous and immediately threatening, based on child's age and developmental status.
  - 10) Child sexual abuse is suspected and circumstances suggest that child safety may be an immediate concern.
  - 11) Caretaker's current substance use seriously affects his/her ability to supervise, protect, or care for the child.
  - 12) Caretaker fails to protect child from serious physical or threatened harm.
  - 13) Caretaker's emotional stability seriously affects current ability to supervise, protect, or care for child.
  - 14) Caretaker has previously maltreated a child and severity of maltreatment or caretaker's response to previous incidents suggest child safety may be an immediate concern.
- B. The existence and extent of previous injuries; and,
  - C. The names and conditions of other children in the home.

If the alleged offender is not a family member or does not live in the home of the alleged victim, the assigned investigative agency will conduct an investigation to determine:

- A. The existence, cause, nature, and extent of child maltreatment with particular attention to any of the Arkansas Health and Safety Factors that may be present (see above for list of the fourteen Arkansas Health and Safety Factors);
- B. The identity of the person responsible for the maltreatment; and,
- C. The existence and extent of previous maltreatment perpetrated by the alleged offender.

In addition to the other information described in this section (i.e., Overall Investigation Goals), the assigned investigative agency will also attempt to determine:

- A. The identity of the person responsible for the maltreatment;
- B. The relationship of the children with the parents or caretakers and their circumstances;
- C. The child's environment in terms of risk and protective factors; and,
- D. All other pertinent information.

Ultimately, the information described above that is collected during the fact-finding phase of the child maltreatment investigation allows the Division to determine:

- A. If services are necessary to assist the family and allow the child to remain safely at home (per A.C.A. §12-18-604, the Department has the authority to make referrals or provide services during the course of the child maltreatment investigation);
- B. If separation of the child from the family is necessary to protect the health and safety of the child; and,
- C. Whether there is a preponderance of the evidence (see Appendix I: Glossary) to support the report.

If at any time before or during an investigation it is determined that the alleged offender is not a caretaker of a child and the alleged victim has reached 18 years of age prior to notification the child maltreatment investigation shall be closed, notwithstanding any criminal investigation.

#### REASONABLE EFFORTS TO PREVENT REMOVAL

Throughout the investigation the Division will ensure reasonable efforts are made to preserve the family and to prevent the need to remove the child from the home unless the health and safety of the child warrant immediate removal for the protection of the child. When the investigative agency's first contact with the family has occurred during an emergency in which the child could not safely remain at home, even with reasonable services being provided, the Division will be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

#### INVESTIGATION COMPONENTS

The child maltreatment investigation will consist of, but is not limited to, completion of a Health and Safety Assessment and interviews with:

- A. Alleged victim;
  - B. Parents, both custodial and non-custodial;
  - C. If neither parent is the alleged offender, the alleged offender;
  - D. Current or past healthcare providers when the allegation of child maltreatment was reported by a healthcare provider; and,
  - E. Any other relevant collaterals.
- appropriate parties (i.e., alleged victim, any siblings of the victim or other children under the care of the alleged offender, the non-offending parent, the alleged offender, and collaterals as appropriate) and completion of the Health and Safety Assessment.

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The Health and Safety Assessment is designed to:

- A. Identify Arkansas Health and Safety Factors in the home which affect the child's immediate health and physical well-being.
- B. Guide the Family Service Worker (FSW) in determining whether or not the child can remain safely in the home.
- C. Serve as a structured decision-making tool. For example, information collected on the Health and Safety Assessment can be used to document reasonable efforts or aggravated circumstances. It can also be used to assist in completing the court report, and at important case decision points, or when there are major changes in case circumstances.
- D. Assess the child's health and safety at placement changes if the child is removed from the home.

If the alleged offender is identified as a parent or primary caregiver, the ~~CFS-6025~~ Health and Safety Assessment in the Children's Reporting Information System (CHRIS) ~~will~~should be completed based on the conditions present when the child and the parent or primary caregiver are together in the home. Children ages 0-6, children with developmental disabilities or children who have been repeatedly victimized shall be considered especially vulnerable.

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Information to complete the Health and Safety Assessment will be gathered during the child maltreatment interviews. All interviews and the entirety of the Health and Safety Assessment must be completed by the investigator within 30 calendar days of the receipt of the child maltreatment report. The Health and Safety Assessment must be approved by the FSW Supervisor within 45 calendar days of the receipt of the child maltreatment report.

The Health and Safety Assessment is comprised of three componentssections:

- A. Health and Safety Checklist
- B. Safety Planning
- C. Investigation Risk Assessment

The Health and Safety Assessment cannot be closed until both the Health and Safety Checklist and Safety Planning screens are completed.

A description of each of the Health and Safety Assessment sections and their associated actions during an investigation follows:

#### *Health and Safety Checklist*

The Health and Safety Checklist is the first component of the Health and Safety Assessment. It contains the fourteen Arkansas Health and Safety Factors (hereinafter referred to as "safety factors"). Upon the investigation initiation, the primary investigative agency will assess whether or not any of the fourteen safety factors are present. The presence or absence of safety factors must be documented by the primary investigative agency in the Health and Safety Checklist screen in CHRIS within two 48 business dayhours of the investigation initiation,

~~excluding weekends and holidays.~~ Every subsequent contact with the family should also include an assessment for any safety factors; however, the Health and Safety Checklist is only completed again in the event that additional safety factors are identified and/or facts change.

If CACD is assigned primary on an investigation and, ~~after interviewing the alleged victim, identifies the need for DCFS to complete a safety assessment~~~~identifies one or more of the safety factors~~, the CACD investigator will immediately contact DCFS to ~~conduct the~~~~conduct the remaining components of the~~ Health and Safety Assessment (Safety Planning and Investigation Risk Assessment) as appropriate. DCFS will then be assigned as the secondary investigator on that particular investigation.

If CACD is assigned primary on an investigation and does not identify ~~the need for DCFS to conduct a safety assessment~~~~any safety factors~~, the CACD investigator is responsible for completing the Investigation Risk Assessment if the allegation is found true and an in-home or out-of-home case will be opened.

If DCFS is assigned primary on an investigation, DCFS will complete all components of the Health and Safety Assessment as appropriate regardless of whether safety factors are identified. The identification of the presence or absence of safety factors is critical to safety planning.

#### Safety Planning

Safety Planning is the second component of the Health and Safety Assessment. Safety planning requires specific actions to be taken to ensure a child's safety during the course of an investigation. If a safety factor is identified, there are only two ~~options~~ basic alternatives to implement during the safety planning process:

- A. Develop a protection plan to mitigate the identified safety factors to allow the child remain safely in the home; or,
- ~~B. Remove the child from the home and take protective custody.~~
- B. The Safety Planning screen in CHRIS documents the actions taken to ensure a child's safety during the course of an investigation.

These two options are described below:

##### 1) Protection Plans

##### Protection Plan Development and Content

When any safety factors are present, a protection plan must be developed to address each identified safety factor if the child will remain in the home. A protection plan is a written plan developed by DCFS staff in conjunction with the family to address identified safety factors. The actions and any services needed to address safety factors contained in a protection plan will depend on the dynamics of a particular investigation (and/or case) and the family involved. This documentation describing the actual use or consideration of using protecting interventions establishes reasonable efforts to prevent removal of the child from the home.

Regardless of the actions included in a protection plan, protection planning is a process that occurs with the family and may include the family's selected support network. Protection planning and oversight on the part of the Division continues throughout involvement with the family as long as safety factors are present. The plan must be sufficient to manage and control safety factors based on a high degree of confidence that it can be implemented, sustained, and closely monitored by DCFS (see below for more information). The Division will assure that the roles and responsibilities of the protection plan are clearly described to and discussed with the person providing those services.

A protection plan must be developed and receive DCFS supervisory approval prior to DCFS staff leaving the home. The protection plan serves as a written agreement between the Division and the family. As such, a copy of the plan will be provided to the caregiver and to other members participating in the plan prior to the investigator leaving the home.

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However, protection plans may not:

- a) Make a change to the current physical and/or legal custody arrangement of the child; or,
- b) Otherwise limit the right of a parent or legal custodian to visit/have access to his or her child, including supervised visits,

unless a dependency-neglect petition is first filed with the court to address identified safety factors and a corresponding court order is obtained to make a change to the current custody arrangements or otherwise limit the right of a parent or legal custodian to have access to his or her child. An alternate method of ensuring child safety must be implemented until the required court order is issued to alter custody or visitation arrangements.

To file a dependency-neglect petition to ensure a child's safety in the home, the FSW will contact OCC immediately (or at the start of the next business day if the safety assessment occurred after hours or on the weekend) to request OCC to file the appropriate petition. It is crucial that the FSW Investigator, with support from his or her supervisor, determines exactly what the Division is requesting the court to order, if applicable, to address the identified dependency-neglect issues (i.e., safety factors).

If the requested court order is issued, the FSW Investigator will then craft a corresponding protection plan that reflects the orders of the court as well as any other actions or information that need to be included in the protection plan to ensure child safety. The FSW Investigator will then thoroughly explain the contents of the protection plan to the caregivers and other individuals who may be a part of the protection plan.

The protection plan must be developed and receive DCFS supervisory approval prior to DCFS staff leaving the home. The protection plan serves as a written agreement between the Division and the family. As such, a copy of the plan will be provided to the caregiver and to other members participating in the plan prior to the investigator leaving the home. *Order of Less Than Custody*  
An order of less than custody is one action that could potentially be included in a protection plan (once the order is issued), if appropriate. An order of less than custody legally restricts the alleged offender from contact with the child while allowing the child to remain in the home with the non-offending custodian (if the non-offending custodian is already a legal custodian of the child) as part of the protection plan.

In addition to the situation above in which the non-offending custodian is the legal custodian of the child and wants to restrict the alleged offender's access to the child, orders of less than custody may also be applicable to situations in which:

- A. The legal custodian placed or otherwise allowed the child to reside with another person for more than six months; and,
- B. The legal custodian is named as an alleged offender in the investigation; and,
- C. The child's current caretaker and DCFS assess that the legal custodian's (who is also the alleged offender) access to the child poses an immediate danger to the child's health or physical well-being; and,
- D. DCFS has no immediate health or physical well-being concerns with the current placement; and,
- E. DCFS has determined that specific safeguards in the court order will ensure the child's immediate health and physical well-being while remaining in the current home.

The Division will thoroughly assess for safety factors (to be documented in the Health and Safety Checklist) to ensure that a protection plan is in place for a child before leaving that child in a home where DCFS has petitioned the court for an order of less than custody.

To file a dependency-neglect petition to obtain an order of less than custody, the FSW will contact OCC immediately to request OCC to file the appropriate petition.

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#### Protection Plan Documentation

The Safety Planning screen in CHRIS documents the actions taken to ensure a child's safety during the course of an investigation. If a protection plan is developed, it must be documented in the Safety Planning screen in CHRIS within two business days of the investigation initiation.

If any other actions were taken or services put in place to ensure safety of the child victim or other children in the home, then these activities must also be documented in the Safety Planning screen in CHRIS within two business days.

#### Protection Plan Monitoring and Assessment

All protection plans will be monitored via an initial face-to-face contact with the family (to include alleged victim(s), alleged offender(s), and any other children in the home) within at least 72 hours and then via a minimum of weekly, ~~at a minimum~~, face-to-face contact for the remaining life of the protection plan.

While the health and safety of the child is always assessed each time the Division comes into contact with the child, per A.C.A. 12-18-1001(d)(2)(A)-(B), ~~and formally reassessed for safety concerns within 30 days of the initial implementation date, the health and safety of the child and any corresponding protection plan will be formally reassessed within 30 days of the date on which the protection plan was implemented. If after this formal reassessment is performed, the Division determines that a substantial risk of harm to the health and safety of the child remains and that the protection plan must stay in place to ensure the health and safety of the child, then the Division will file a petition for dependency-neglect (however, note that the Division may file a petition for dependency-neglect at any point to if needed to ensure the health and safety of the child) Protection plans which remain in place to address safety concerns 30 days after initial implementation will require the FSW to provide an affidavit to the local OCC for use as a petition for dependency-neglect unless the parent, guardian or custodian is not:~~

~~—The alleged offender; or,~~

~~A. Alleged to have failed to protect the juvenile.~~

~~If a case connect has already occurred, then the assigned FSW Caseworker and FSW Investigator who implemented the protection plan will collaborate to reassess the protection plan and provide the affidavit and a copy of the CFS-200: Protection Plan to OCC to file any necessary petitions for dependency-neglect at 30 days.~~

~~Protection plans may not be used in circumstances which: Make a Affidavits related to a protection plan for which a 30 day petition will be filed must be submitted to the local OCC attorney within three business days of the implementation of the protection plan. The only exception is for those counties in which Team Decision Making (TDM) is implemented. For TDM counties, the affidavit will be completed after the TDM meeting is held. The affidavit must be submitted within two business days of the conclusion of the Team Decision Making meeting.~~

~~If an emergency order of less than custody (see below for more information regarding orders of less than custody) is not obtained from the court, a protection plan may never:~~

- ~~A. Make any change to the current physical and/or legal custody arrangement of the child; or,~~
- ~~B. Otherwise limit the right of a parent (whose rights have not been terminated for the specific child(ren) involved in the current investigation) or legal custodian to visit/have access to his or her child including supervised visits.~~

Possible Protection Plan Actions:

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Depending on the dynamics of a particular investigation and the family involved, the following orders, among many other actions, may be a part of a protection plan as appropriate:

**A. Order of Less Than Custody**

If there are concerns about the alleged offender's access to the child and there is no reason to suspect that the non-offending custodian will allow the alleged offender access to the child, then DCFS is encouraged to obtain an "Order of Less Than Custody" filed with the court so as to legally restrict the alleged offender from contact with the child while allowing the child to remain in the home as part of the protection plan.

In addition to the situation above in which the non-offending custodian is the legal custodian of the child and wants to restrict the alleged offender's access to the child, orders of less than custody may also be applicable to situations in which:

- A. The legal custodian placed or otherwise allowed the child to reside with another person for more than six months; and,
- B. The legal custodian is named as an alleged offender in an investigation; and,
- C. The child's current caretaker and DCFS assess that the legal custodian who is also the alleged offender's access to the child pose an immediate danger to the child's health or physical well-being; and,
- D. DCFS has no immediate health or physical well-being concerns with the current placement; and,
- E. DCFS has determined that specific safeguards in the court's order will ensure the child's immediate health and physical well-being while remaining in the current home.

To obtain an order of less than custody, the FSW may contact OPLS immediately to request OPLS to file a petition for an "order of less than custody." While the child may remain in the home under the conditions described above, an order of less than custody is still a dependency-neglect petition. It is not necessary for the alleged offender to have legal right to custody or visitation with the child or to have property rights allowing access to the home where the juvenile resides or to be a juvenile in order to petition the court for an order of less than custody.

The Division shall thoroughly assess for safety factors (to be documented in the Health and Safety Checklist) to ensure that a protection plan is in place for a child before leaving that child in a home where DCFS has petitioned the court for an order of less than custody.

Case Opening, Assessment, and Case Plan as a Result of a Protection Plan Filed with the Court  
In accordance with A.C.A. , all petitions filed with the court must have a corresponding case plan filed with the court within 30 days. For a petition filed as the result of a protection plan, a protective services case will be opened in order to fully assess the family and provide needed services via the case plan, a corresponding case plan will be filed with the court within 30 days per A.C.A. § 9-27-402.

The assigned FSW investigator will continue to monitor the protection plan until it is no longer needed. The assigned FSW caseworker will complete the Family Advocacy and Support Tool (FAST) in collaboration with the family, FSW investigator, and other appropriate stakeholders (see Policy IV-A: Family Assessments for more information regarding the FAST). The FSW Caseworker will also have the primary responsibility of developing the case plan with the family and ensuring the implementation of the case plan (see Policy IV-B: Services Case Plans for more information).

**B. Order of Protection**

Any adult family/household member may file a petition for an order of protection on behalf of another family or household member, including a married minor. An employee or volunteer of a domestic violence shelter or program may file a petition on behalf of a minor, including a married minor. The Division will thoroughly review the Health and Safety Assessment to ensure that a protection plan is in place for a child before leaving that child in a home where an order of protection has been filed.

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~~An order of protection issued by a court of competent jurisdiction in any county of this state is enforceable in every county of this state by any court or law enforcement officer. An order of protection issued by a court of another state, federally recognized Indian tribe, or a territory shall be afforded full faith and credit by the courts of Arkansas and shall be enforced by law enforcement as if it were issued in Arkansas.~~

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~~Regardless of the actions included in a protection plan, protection planning is a process that occurs with the family and may include the family's selected support network. However, protection planning is ultimately the responsibility of DCFS and cannot be delegated to the family, supports, or treatment providers. Protection planning and oversight on the part of the Division continues throughout involvement with the family as long as safety factors are present. The plan must be sufficient to manage and control safety factors based on a high degree of confidence that it can be implemented, sustained, and closely monitored by DCFS. The Division will assure that the roles and responsibilities of the protection plan are clearly described to and discussed with the person providing those services.~~

~~If a protection plan is developed, it must be documented in the Safety Planning screen in CHRIS within 48 hours of the investigation initiation, excluding weekends and holidays.~~

~~If a reasonable protection plan cannot be developed, then the child must be removed and placed in an approved placement (see below for more information regarding protective custody). Removal must also be documented in the Safety Planning screen in CHRIS within two48 business dayshours, excluding weekends and holidays, of the act of removal of the child.~~

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~~If any other actions were taken or services put in place to ensure safety of the child victim or other children in the home, then these activities must also be documented in the Safety Planning screen in CHRIS within 48 hours of the investigation initiation, excluding weekends and holidays.~~

~~If there are risk factors and/or evidence that maltreatment has occurred, but no safety factors are present, then neither a protection plan nor removal of the child is necessary at that point in time. When no safety factors are present, per A.C.A. § 12-18-1009, the parents retain the right to keep the child at home or to place the child outside the home. However, as appropriate, the FSW liinvestigator may make referrals or provide services during the course of the child maltreatment investigation to address any risk factors. All referrals made and/or services provided during the course of the child maltreatment investigation shall be documented in the Service Log and Investigation Finding~~contact~~ screen in CHRIS.~~

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## 2) Protective Custody

~~If a safety factor is identified in the home and it cannot be mitigated with the implementation of a protection plan, the Division must remove the child from the home and take protective custody. This requirement applies to any point during a child maltreatment investigation or open case when the health and physical well-being of a child are in immediate danger. When a child is taken into protective custody, the child shall be placed in an appropriate licensed or approved placement. This may include an identified relative or fictive kin (fictive kin means a person selected by the Division of Children and Family Services who is not related to the child by blood or marriage, and has a strong, positive, and emotional tie or role in the child's life or the child's parent's life if the child is an infant) home if it is in the best interest of the child and all criteria for opening a provisional foster home and placing the specific child for whom the provisional foster home was opened have been met (see Policy VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care and Policy VII: Development of Foster Homes for more information).~~

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~~The Division may file a motion to transfer any other prior or subsequent legal proceeding concerning the juvenile (e.g., if a relative of the child taken into custody attempts to obtain guardianship or custody of the juvenile) to the court that is hearing the dependency-neglect petition if the Division:~~

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A. Takes a 72-hour hold; or,

B. Files a petition for ex parte emergency order; or,

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C. Files a petition for dependency-neglect.

*Investigation Risk Assessment*

The Investigation Risk Assessment is the third component of the Health and Safety Assessment. It (CFS-6026: Investigation Risk Assessment in CHRIS) is designed to:

- A. Assess the family's level of risk during the child maltreatment investigation.
- B. Establish a baseline level of risk for a family.
- C. Identify the factors and circumstances that indicate the child may be at risk of future abuse or neglect.
- D. Indicate the necessary level of involvement to assure the child's well-being.
- E. Provide a structured decision-making tool in case planning (the investigation risk assessment informs the case plan if a case is opened after the completion of the investigation).

The ~~CFS-6026~~ Investigation Risk Assessment in CHRIS will be completed on all cases with a child maltreatment determination of "True." As such, the Investigation Risk Assessment must be completed by the investigator within 30 calendar days of receipt of the hotline report and must receive supervisory approval within 45 calendar days of receipt of the hotline report.

Levels of risk are classified as intensive, high, moderate, and low. The higher the score, the higher the risk of future harm. The level of risk determined during the Investigation Risk Assessment will be considered the baseline level of risk for any subsequent case that is opened, if applicable.

Overrides to Risk Levels have been established to assist the FSW in ensuring that the level of risk for a case accurately reflects the risk level for the children. A supervisor is allowed to make discretionary policy overrides when a unique circumstance warrants a higher risk level than assigned by the risk level chart.

The discretionary Risk Level Override options are listed below and require the supervisor to upgrade the risk level to Intensive at the initial investigation, regardless of the risk scale score.

- A. Sexual abuse cases where the perpetrator is likely to have access to the victim child.
- B. Cases with non-accidental physical injury to an infant.
- C. Serious non-accidental physical injury requiring hospital or medical treatment.
- D. Death (previous or current) of a sibling as a result of abuse or neglect.

Risk Level Overrides must be reassessed when the case plan is updated.

**PROTECTIVE CUSTODY**

~~If at any point in time during the investigation the health and physical well-being of a child are in immediate danger and the Division must take custody of the child to ensure his or her health and safety, the child shall be placed in an appropriate licensed or approved placement. This may include an identified relative or fictive kin home if it is in the best interest of the child and all criteria for opening a provisional foster home and placing the specific child for whom the provisional foster home was opened have been met (see Policy VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care and Policy VII: Development of Foster Homes for more information).~~

~~The Division may file a motion to transfer any other prior or subsequent legal proceeding concerning the juvenile (e.g., if a relative of the child taken into custody attempts to obtain guardianship or custody of the juvenile) to the court that is hearing the dependency-neglect petition if the Division:~~

- ~~A. Takes a 72-hour hold; or,~~
- ~~B. Files a petition for ex parte emergency order; or,~~
- ~~C. Files a petition for dependency-neglect.~~

**RIGHTS OF INVESTIGATOR**

The investigator has the right to obtain a criminal background check, including a fingerprint-based check in any national crime database, on any subject of the report. The results of the criminal background check will not be disclosed outside of the Department except as permitted under A.C.A. §12-18-612.

In accordance with A.C.A. § 12-18-613, on request by the investigating agency, any school, child care center, child care facility, residential facility, residential treatment facility, or similar institution shall provide the investigator with the name, date of birth, Social Security number, and last known address and phone number of any alleged offender if the alleged maltreatment occurred at that school, center, or facility. Any school, child care facility, residential facility, or similar institution shall also provide the person conducting the investigation with the name and address of any witness to the alleged child maltreatment if the alleged child maltreatment occurred at that school, center, or facility.

The FSW or CACD investigator conducting the child maltreatment investigation also has the right to enter into the home, school, or other place for the purpose of conducting an interview or completing the investigation. The investigator also has the right to request accompaniment by a law enforcement agent while conducting the investigation. If the investigator is denied access into the home, school, or other place for investigative purposes, then the investigator must prepare an affidavit to submit to OCPLS in order to request an Order of Investigation. If the investigator is denied access into the home, school, or other place and has reason to believe a child's health or safety are in immediate danger, the investigator will call local law enforcement immediately (if not already accompanied by LLE) in order to help gain access into the home.

No publicly supported school, facility, or institution may deny access to any person conducting a child maltreatment investigation. DCFS, CACD, and law enforcement shall be allowed access to the child's public and private school records during the course of the child maltreatment investigation. School district staff shall not provide notification if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in place of a child's parent is named as an alleged offender and the interviewer requests that the school personnel does not make said notification.

Per A.C.A. § 12-18-604, DHS may petition a circuit court to allow an investigator to access the controlled substance database if the investigator demonstrates probable cause that the alleged offender has one or more prescription drugs, and the baby or the alleged offender tested positive for prescription drugs at the time of the birth of the baby.

The investigator will have the discretion, in the child's best interest, to limit the persons allowed to be present when a child is being interviewed concerning an allegation of child maltreatment. The investigator will determine when a child or any other children residing in the home should be referred to a physician, psychologist, or psychiatrist for a medical or psychological examination. While DCFS staff may conduct drug screens on teenagers when necessary, all children younger than 13 should be referred to a physician or medical facility for drug screening if needed.

DCFS will fully cooperate and participate in multidisciplinary child maltreatment response teams. All information except the name of the reporter may be disclosed to the teams.

#### INTERPRETER SERVICES

At any point during the course of a child maltreatment investigation, when the person being interviewed cannot clearly communicate in English, the investigator shall arrange for an interpreter before continuing the interview. The interpreter must be trained and appropriately certified to translate the specific language needed.

If at any point during the course of a child maltreatment investigation, the investigator cannot determine whether the person being interviewed can clearly and effectively communicate in English, the interviewer shall end the interview. The interview shall recommence when a determination is made that the person can or cannot clearly communicate in English, and when necessary, a translator certified to translate the specific

language has been obtained to facilitate clear communication. Family members should never serve as interpreters for an investigator conducting an interview.

If any delay in obtaining investigation or investigative information from having to make a determination about language and clear communication results in or creates a situation in which the alleged victim child's health or physical well-being will be put in immediate danger, the child will be placed in 72-hour protective custody.

#### INVESTIGATION COMPLETION TIMEFRAMES AND EXTENSIONS

Regardless of whether the child maltreatment investigation is conducted by DCFS, CACD, or local law enforcement, the supervisor approved investigative determination shall be made within 45 calendar days.

The Area Director or designee may request an extension of an additional 15 calendar days (for a total investigative timeframe of 60 calendar days) to complete the investigation and make a determination if good cause for the requested extension is shown. Circumstances that meet the definition of good cause, as it pertains to requesting and granting a 15 day extension to make an investigative determination, include but are not limited to:

- A. The Prosecuting Attorney or law enforcement officials have requested that DCFS postpone the determination due to a pending criminal investigation;
- B. Medical, crime lab, or autopsy reports needed to make a determination have not been received;
- C. The report involves some out-of-state subjects and interview write-ups have not been received;
- D. Conflicting medical opinions have been received, requiring further analysis; or,
- E. Multiple alleged offenders or victims are involved, requiring additional time to conduct interviews and gather evidence.

Documentation supporting the request for the extension must be submitted with the request.

All extension requests must be submitted to and approved by the Assistant Director of Community Services or designee.

#### INVESTIGATIVE DETERMINATIONS AND RESULTING REFERRALS AND CASE OPENINGS

Within the appropriate timeframes outlined above, and utilizing PUB-357: Child Maltreatment Assessment Protocol, a child maltreatment investigation will be determined to be:

- A. Unsubstantiated
- B. True
- C. True but exempt for:
  - 1) Garrett's Law (as defined by A.C.A. § 12-18-103(14)(B))
  - 2) Religious beliefs
  - 3) Underaged juvenile offenders
- D. Inactive, ~~based on the criteria in PUB-357: Child Maltreatment Investigation Protocol.~~

The criteria for each of these determinations are as follows:

##### *Unsubstantiated Determination*

A child maltreatment investigation will be determined unsubstantiated in the event that:

- A. The allegation of child maltreatment is not supported by a preponderance of the evidence following an investigation by Division staff.
- B. The investigation concludes the injuries were the result of reasonable and moderate physical discipline inflicted by a parent or guardian for the purpose of restraining or correcting the child.

##### *True Determination*

A child maltreatment investigation will be determined true in the event of:

- A. An admission of the fact of maltreatment by persons responsible;
- B. An adjudication of dependency-neglect;

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- C. A determination of the existence of maltreatment by Division staff, based on a preponderance of the evidence;
- D. A medical diagnosis of failure to thrive. The Family Service Worker should, however, complete the Child Maltreatment Investigation in accordance with the procedures included to determine the identity of the caretaker and to conduct an investigation of the family for the purposes of determining appropriate service delivery;
- E. Any other medical or legal form of confirmation deemed valid by the Division.

If a report is determined to be true, the names and conditions of any minor children of the alleged offender, and whether these children have been maltreated, or are at risk of maltreatment, will be determined. If the report is determined to be true, and is a report of sexual intercourse, deviate sexual activity, or sexual contact, an investigation of any other children previously or currently under care of the alleged offender, to the extent practical, and whether these children have been maltreated, or are at risk of maltreatment, will be determined. The worker conducting the investigation shall also seek to ascertain all other relevant data.

If a report is determined to be true and involves any children under the age of three, those children must be referred to the Division of Developmental Disabilities Children's Services for an early intervention screening per the Child Abuse and Prevention Treatment Act (CAPTA) if the children were not already referred during the course of the investigation (see Policy II-I: Early Intervention Referrals and Services and related procedures for more information).

If a report of sexual abuse is determined to be true and the alleged offender is under the age of 18 at the time the act or omission occurred, the parents or legal guardians of the alleged juvenile or underaged juvenile offender and victim shall be provided with a list of mental health professionals or agencies available to evaluate and treat the alleged juvenile offender or underaged juvenile offender and victim, if necessary. Providing this information does not necessarily require the Division to pay for the mental health evaluation and/or any subsequent mental health treatment or services.

#### *True but Exempt Determination*

The following types of cases may be found true but exempt from placement on the Child Maltreatment Central Registry. The Division may open a protective services case for any investigative determination of true but exempt.

#### *Garrett's Law Exemptions*

A child maltreatment investigation that documents the presence of an illegal substance in either the bodily fluids or bodily substances in the mother or child at the time of birth resulting from the mother knowingly using any illegal substance (i.e., Garrett's Law case) will be found true but exempt and will not be placed on the child maltreatment registry. A protective services case shall be opened to establish a plan of safe care.

If the FSW determines on an individual basis the child's health or physical well-being is in immediate danger, he or she should take the newborn into protective custody. The FSW must also assess any siblings of the newborn or other children under the care of the alleged offender. If it is determined that there is an immediate danger to the siblings' (or any other children under the care of the alleged offender) health or physical well-being, then they must also be brought into emergency 72 hour protective custody.

"Acceptable" reporters include any one of the following mandated reporters, who have reasonable cause to suspect that a newborn has been subjected to an illegal substance before birth or the mother had an illegal substance in her bodily fluids or bodily substances at the time of the birth:

- licensed nurse;
- osteopath;
- physician;
- medical resident or intern;

- surgeon;
- hospital social worker;
- or, any medical personnel who may be engaged in the admission, examination, care or

\_\_\_ treatment of persons in hospitals or similar medical settings.

During the course of an investigation, or when DCFS has custody, if the mother or newborn has tested positive for the presence of an illegal substance in the bodily fluids or bodily substances, and the mother indicates that she wants to place the newborn for adoption through a private agency or private entity, the Family Service Worker must contact OCCPLS immediately. If the infant is placed with a private adoption agency, then do not open a Protective Services case.

#### Religious Belief Exemptions

A child maltreatment investigation will be determined to be true but exempt due to religious beliefs exemption in the event that the Family Service Worker determines that the parent's decision to withhold medical treatment was based solely upon a religious belief, choosing instead to furnish the child with prayer and spiritual treatment in accordance with a recognized religious method of healing by an accredited practitioner.

A Family Service Worker will place a child whose health or physical well-being is in immediate danger in a safe environment in DHS custody regardless of the beliefs of the parents. The religious exemption does not preclude the FSW's right and responsibility to take appropriate action, including petitions to the court, to obtain necessary medical services.

#### Underaged Juvenile Offender Exemptions

A child maltreatment investigation will have an individual finding of true but exempt for underaged juvenile offenders if there is an overall true finding of sexual abuse by a child under the age of 14 to another child.

#### Inactive Determination

Per A.C.A. § 12-18-619, a Child Maltreatment Investigation will be determined inactive if at any time before or during the investigation the Department is unable to locate or identify the alleged offender because the alleged child maltreatment occurred:

- More than 5 years ago; or,
- In another state.

Failure to complete the investigation within the required 45 days is NOT a reason to place a case on inactive status. The report MUST document why the investigation could not be completed. A case will remain on inactive status for one year, at which time it will be expunged.

#### INVESTIGATIVE DETERMINATION NOTICES

The Division Children and Family Services Central Office Notifications Unit ~~Division of Children and Family Services~~ will issue notices regarding the child maltreatment investigative determination whether true or unsubstantiated to all persons pursuant to A.C.A. § 12-18-703 et seq. The Division will issue notices in such a way as to ensure the rights to due process of the alleged offender and to protect others who may be at risk of harm from the alleged offender (See Policy XIV-A: Notices Regarding Child Maltreatment and related procedures for more information and specific instructions). The Central Office Notifications Unit will also handle all notices related to administrative hearing decisions and placement on the Child Maltreatment Central Registry.

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## PROCEDURE II-D8: Health & Safety Checklist

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The FSW ~~i~~nvestigator or the (CACD) ~~i~~nvestigator (depending on which agency is assigned as primary) will:

- A. Identify any safety factors that may contribute to the immediate danger of the child's health or physical well-being.

1) If CACD is assigned primary and after interviewing the alleged victim identifies one or more safety factors, contact the DCFS supervisor or designee immediately to ~~complete the remaining components of the~~conduct a Health and Safety Assessment (i.e., Safety Planning and Investigative Risk Assessment).

a) If after completing the Health and Safety Assessment as requested by CACD, the FSW Investigator assesses that there is not a safety factor involved, the FSW Investigator will:

i. Document in an investigations contact why the FSW Investigator determined there was not a safety factor and, as such, why the FSW Investigator did not select to implement a protection plan or remove the child.

ii. Communicate with the CACD Investigator regarding both the CACD initiation and the DCFS safety assessment including why the FSW Investigator determined there was not a safety factor present.

F-iii. Document the communication between CACD and DCFS in an investigations contact.

- B. Complete the Health and Safety Checklist for each child in the family by identifying the presence or absence of any safety factors by checking "yes" or "no", respectively within ~~48 hours~~two business days excluding weekends and holidays.

- C. Provide narrative documentation on the Health and Safety Checklist for each safety factor identified.

D. In cases involving CACD as primary and DCFS as secondary, both agencies will collaborate to ensure that DCFS has all relevant information needed to ~~complete the remaining components of~~conduct the Health and Safety Assessment (i.e., Safety Planning and Investigation Risk Assessment; see Procedures II-D9 and II-D10, respectively, for more information).

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## PROCEDURE II-D9: Safety Planning

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The FSW investigator will:

- A. Make the appropriate child protecting decisions if the child's health or physical well-being are in immediate danger.
- B. If a safety factor is not identified on the Health and Safety Checklist, but it is determined that services or other actions can be put in place to address risk factors or otherwise strengthen the family during the course of the investigation:
  - 1) Implement the services or other actions accordingly.
  - 2) Document services provided or other actions taken in the Service Log and investigation contact screen in CHRIS.
    - a) If all of the statements on the Health and Safety Checklist screen are selected "no," then the default decision on the Safety Planning screen will be "safe" indicating that there are no children whose health or physical well-being are likely to be in immediate danger. As such, the FSW will not have to enter any information in the Safety Planning screen.
- C. If a safety factor(s) is/are identified, establish the appropriate protecting intervention for each identified safety factor.
  - 1) If a protection plan can be put into place to mitigate the identified safety factor(s):
    - a) Determine the suitability of the person or persons responsible for carrying out the protection actions by assuring that those persons:
      - i. Are present and participate in the development of the protection plan;
      - ii. Are fully informed about the safety factors and concerns;
      - iii. Understand and accept their responsibility to protect the child;
      - iv. Accept and believe that the safety factors and potential dangers exist;
      - v. Are available in terms of time and accessibility;
      - vi. Are aligned with and responsive to DCFS;
      - vii. Are trustworthy, dependable and have no substance use, mental health issues, or other major life issues that may prevent them from meeting their responsibilities in the plan; and,
      - viii. Provide a home that is suitable and safe if the child will be staying there.
    - b) Assure that the protection plan is sufficient to manage and control identified safety factors and prevent subsequent dangers to the child by meeting the following criteria:
      - i. Does not rely on promises from caregivers or court orders prohibiting behaviors;
      - ii. Focuses on enhancing caregiver protective capacities as the highest priority for change;
      - iii. Includes immediate supports and/or services that have an impact on controlling identified safety factors;
      - iv. Is individualized to the needs and dynamics of the family and the specific safety factor(s) identified;
      - v. Has a mechanism for ongoing oversight and monitoring by the FSW that allows FSW to provide feedback to the family and problem solve with the family as needed; and,
      - vi. Is time limited noting when each activity must be completed or in place and when the plan should expire.
    - c) If applicable, inform the non-offending caretaker of the right to file a petition in accordance with the "Domestic Abuse Act," Ark. Code Ann. § 9-15-101 et seq. in Circuit Court to have the offender removed from the home as part of the protection plan.
    - ~~d) If the protection plan must include an intervention that will make a change to the child(ren)'s residency, the options are:~~

- i. ~~The child(ren) may remain in residence with a non-offending custodian if the alleged offender is legally restricted from contact with the child(ren) by:~~  
~~(1) An "order of less than custody" obtained by DCFS; and,~~  
~~(2) There is no reason to suspect that the non-offending custodian will allow the offender access to the child(ren).~~
- d) Before leaving the home, obtain supervisory approval of the protection plan developed with the family.
- e) Provide a copy of the protection plan with the family via CFS-200: Protection Plan before leaving the home.
- f) ~~Refer the family to the local TDM Facilitator for a Team Decision Making (TDM) meeting within two hours of putting a protection plan in place, if applicable (i.e., if working in a county in which TDM has been implemented; see Policy II-F: Team Decision Making for more information).~~
- i. ~~If a TDM Meeting will be held regarding the protection plan, and it is determined a petition for dependency-neglect is needed in association with the protection plan, then the affidavit (to include information from the TDM Meeting Summary Report) must be submitted to the local OCC attorney in order to file the petition with the court within two business days following the TDM Meeting.~~
- f) —
- g) Document the protection plan in CHRIS on the Safety Planning screen and otherwise complete the Safety Planning screen in CHRIS for any safety factors that have been identified within ~~48-hour~~ two business days of investigation initiation, ~~excluding weekends and holidays.~~
- h) For investigations remaining open longer than 30 days, formally reassess the health and safety of the child within thirty (30) days of the date on which the protection plan was implemented;
- i. If the formal reassessment determines that a substantial risk of harm to the health and safety of the child remains, then submit the affidavit and a copy of the CFS-200: Protection Plan to OCC to file a petition for dependency-neglect.
- +) If at any point a petition for dependency-neglect is filed in relation to a protection plan, then within five days of the petition being filed, accompany the assigned FSW caseworker to the family's home to begin the Family Advocacy Support Tool (FAST) assessment.
- 2) If a protection plan cannot be put into place to mitigate the identified safety factor(s), then the children must be removed from the home and placed in an approved placement.
- 3) For all safety factors with a "yes" response, there should be corresponding documentation in the Safety Planning screen indicating if:
- a) ~~A~~ a written, supervisor-approved protection plan was developed with and provided to the family via CFS-200: Protection Plan thereby allowing the child to remain safely in the home (select the appropriate radio button on the first question in the Safety Planning screen);
- i. The safety decision on the Safety Planning screen will then be "Conditionally Safe," meaning a protection plan has been implemented and interventions outlined in the protection plan have resolved the unsafe situation for the present time.
- b) ~~T~~ the child was removed from the home.
- i. The safety decision on the Safety Planning screen will then be "Unsafe" meaning a protection plan could not be established so removal is the only protecting intervention for the children (i.e., without it, the children's health or physical well-being are likely to be in immediate danger).
- F. Document in CHRIS all other FSW activities, services, and/or contacts associated with the investigation.
- G. Monitor family's implementation of Protection Plan, if one has been put in place, via face-to-face contact with family within at least 72 hours and a minimum of weekly face-to-face contact while the plan continues to be necessary to protect the health and safety of the juvenile.

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- H. If during the course of an investigation a protection plan is put into place by DCFS, but the investigation is ultimately unsubstantiated and/or the court dismisses the petition associated with the protection plan, the FSW investigator will ensure the protection plan is reassessed with the family and communicates with other involved DCFS staff as applicable.

*Note: While a protection plan must be developed during the course of an investigation if a safety factor is identified and the child is to be left in the home, protection plans ~~will~~should also be amended as necessary and/or developed after a protective services case is opened ~~or any other type of case~~ if a safety factor is identified.*

The FSW ~~s~~Supervisor will:

- A. Conference with the FSW investigator regarding the protection plan as needed.
- ~~B.~~ Approve the protection plan, as appropriate, prior to the FSW investigator leaving the home.
- ~~B-C.~~ Communicate as necessary with other DCFS staff to ensure an FSW caseworker is assigned to families for whom a protection plan has been implemented that has an accompanying court order for dependency-neglect.
- ~~D.~~ Approve the Safety Planning screen as appropriate within 45 days of receipt of the hotline report.
- ~~E.~~ Communicate as necessary with DCFS staff to ensure that the protection plan is formally reassessed at thirty (30) days, and, if needed due to a substantial risk of harm to the child's health and safety remaining, a petition for dependency-neglect is filed.

When a protection plan that has an accompanying dependency-neglect petition filed with the court has been put into place the assigned FSW caseworker will:

- A. Accompany the FSW investigator to the family's home within five days of the filing of the petition to begin completing the Family Advocacy Support Tool with the family and FSW Investigator.
- B. Ensure other appropriate stakeholders provide input when completing the FAST (see Policy IV-A: Family Assessments for more information).
- C. Develop a case plan with the family based on the ratings of the FAST (see Policy IV-B: Services Case Plan for more information) within 30 days of the dependency-neglect petition being filed.
- D. Update CHRIS contacts as needed.

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## **POLICY II-D: Investigation of Child Maltreatment Reports**

11/2018

### **OVERVIEW**

All reports of known or suspected child maltreatment are promptly investigated and immediate steps are taken to protect a maltreated child and any other child under the care of the same alleged offender who may also be in danger of maltreatment. The health and safety of the child are always of paramount concern.

While the Division of Children and Family Services (DCFS) is responsible for ensuring the health and safety of children in Arkansas, the Arkansas State Police Crimes Against Children Division (CACD) collaborates with DCFS to conduct investigations of child maltreatment allegations. DCFS and CACD will assess Priority I and Priority II referrals as outlined in the "Agreement Between the Department of Human Services and the Arkansas State Police," which is posted on CHRIS Net and is subject to renewal annually. To determine the individual responsibilities and operational protocol of the two agencies, see the specifics of the agreement. The agreement is written in accordance with Act 586 of 2007, the Governor's Executive Order, and all applicable federal and state laws.

DCFS and CACD, as appropriate, will issue notices regarding child maltreatment allegations to all persons pursuant to § A.C.A. 12-18-501 et seq. The Division will issue notices in such a way as to ensure the rights to due process of the alleged offender and to protect others who may be at risk of harm from the alleged offender. For more information on child maltreatment notices, see Policy XIV-A: Notices Regarding Child Maltreatment and related procedures.

### **INVESTIGATION INITIATION TIMEFRAMES**

All Priority I investigations will begin no later than 24 hours after receipt of a report by the Hotline, excluding:

- A. An allegation of sexual abuse if the most recent allegation of sexual abuse was more than one year ago; or,
- B. An allegation of sexual abuse if alleged victim does not currently have contact with the alleged offender.

While an allegation that a child has been subjected to neglect as defined by Garrett's Law § 12-18-103(14)(B) is defined as a Priority II investigation, all Garrett's Law investigations must be initiated within 24 hours after receipt of a report by the Hotline per A.C.A. § 12-18-602(b)(2)(B).

All other child maltreatment investigations reports will begin within 72 hours after receipt of a report by the Hotline. Investigations are considered initiated when, as age appropriate, the investigator conducts a face-to-face interview with the alleged victim outside the presence of the alleged offender or observes the alleged victim outside the presence of the alleged offender, or the investigator has otherwise met due diligence (see Procedure II-D3 for more information). Once the investigation has begun, the primary focus will be to determine whether or not the alleged offender has access to the child and whether the child or any other children as well as any elderly persons or individuals with a disability or mental illness with whom the alleged offender works are at risk such that they need to be protected.

### **NOTICE OF ALLEGATION**

The investigative agency at the local level is responsible for providing the notice of allegation to all applicable parties as outlined in Procedure XIV-A1: Notices of Allegations of Child Maltreatment.

### **AT RISK DETERMINATIONS**

Upon initiation the investigative agency must determine:

- A. Alleged offender's employer, including the physical address;

- B. Alleged offender's job duties at his employment; and,
- C. Alleged offender's supervisor.

In addition to gathering the information above, the investigative agency must also gather any other necessary information to determine if the alleged offender:

- A. Works with children or is otherwise engaged in paid or volunteer child-related activities;
- B. Works with the elderly;
- C. Works with an individual with a disability or mental illness; or,
- D. Is a juvenile (and therefore has access to other juveniles in a school or similar setting).

If so, the investigative agency must immediately ascertain the name and address of the person in charge of those activities. The investigative agency must then immediately determine whether or not children, the elderly, or individuals with disabilities or mental illness under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender.

The investigative agency supervisor and Area Director (as applicable) may consult with the Office of Chief Counsel (OCC) as necessary, prior to making a determination as to whether children, the elderly, or individuals with disabilities or mental illness appear to be at risk. If the investigative agency determines children, the elderly, or individuals with disabilities or mental illness under the care of the alleged offender are at risk of maltreatment by the alleged offender, then the investigative agency may notify the people and/or entities listed below of the hotline report if the DCFS Director or designee approves the at risk determination and gives written approval to the investigative agency to provide notifications of the at risk determination to:

- A. The alleged offender's employer;
- B. The school superintendent, principal, or a person in an equivalent position where the alleged offender is employed;
- C. The person in charge of a paid or volunteer activity; and,
- D. The appropriate licensing or registering authority to the extent necessary to carry out its official responsibilities.

See Procedure XIV-A2 for number of notification form and other specific instructions regarding providing at risk notifications to the persons and/or entities listed above.

The "at risk" determination will be changed immediately if, upon further investigation, it is determined the children under the care of the alleged offender are not at risk. See Procedure XIV-A3 for more information.

#### OVERALL INVESTIGATION GOALS

During the investigation of an allegation of child maltreatment, and if the alleged offender is a family member, or lives in the home of the alleged victim, the assigned investigative agency will conduct an investigation to determine:

- A. The existence, cause, nature and extent of child maltreatment with particular attention to any of the Arkansas Health and Safety factors that may be present. The Arkansas Health and Safety Factors are:
  - 1) Caretaker's behavior toward child is violent or out of control.
  - 2) Caretaker describes or acts towards the child in predominantly negative terms or has extremely unrealistic expectations.
  - 3) Caretaker caused serious physical injury to child or made plausible threat to cause severe physical injury.
  - 4) Caretaker's explanation for injury is unconvincing.
  - 5) Family refuses access to child there is reason to believe that family is about to flee, or child's whereabouts cannot be ascertained.
  - 6) Caretaker has not, cannot, or will not provide supervision necessary to protect child from potentially dangerous harm.
  - 7) Caretaker is unwilling or unable to meet child's needs for food, clothing, shelter, and/or medical or mental health care.

- 8) Child is fearful of caretaker, other family members, or other people living in or having access to the home.
  - 9) Child's physical living conditions are hazardous and immediately threatening, based on child's age and developmental status.
  - 10) Child sexual abuse is suspected and circumstances suggest that child safety may be an immediate concern.
  - 11) Caretaker's current substance use seriously affects his/her ability to supervise, protect, or care for the child.
  - 12) Caretaker fails to protect child from serious physical or threatened harm.
  - 13) Caretaker's emotional stability seriously affects current ability to supervise, protect, or care for child.
  - 14) Caretaker has previously maltreated a child and severity of maltreatment or caretaker's response to previous incidents suggest child safety may be an immediate concern.
- B. The existence and extent of previous injuries; and,
  - C. The names and conditions of other children in the home.

If the alleged offender is not a family member or does not live in the home of the alleged victim, the assigned investigative agency will conduct an investigation to determine:

- A. The existence, cause, nature, and extent of child maltreatment with particular attention to any of the Arkansas Health and Safety Factors that may be present (see above for list of the fourteen Arkansas Health and Safety Factors);
- B. The identity of the person responsible for the maltreatment; and,
- C. The existence and extent of previous maltreatment perpetrated by the alleged offender.

In addition to the other information described in this section (i.e., Overall Investigation Goals), the assigned investigative agency will also attempt to determine:

- A. The identity of the person responsible for the maltreatment;
- B. The relationship of the children with the parents or caretakers and their circumstances;
- C. The child's environment in terms of risk and protective factors; and,
- D. All other pertinent information.

Ultimately, the information described above that is collected during the fact-finding phase of the child maltreatment investigation allows the Division to determine:

- A. If services are necessary to assist the family and allow the child to remain safely at home (per A.C.A. §12-18-604, the Department has the authority to make referrals or provide services during the course of the child maltreatment investigation);
- B. If separation of the child from the family is necessary to protect the health and safety of the child; and,
- C. Whether there is a preponderance of the evidence (see Appendix I: Glossary) to support the report.

If at any time before or during an investigation it is determined that the alleged offender is not a caretaker of a child and the alleged victim has reached 18 years of age prior to notification the child maltreatment investigation shall be closed, notwithstanding any criminal investigation.

#### **REASONABLE EFFORTS TO PREVENT REMOVAL**

Throughout the investigation the Division will ensure reasonable efforts are made to preserve the family and to prevent the need to remove the child from the home unless the health and safety of the child warrant immediate removal for the protection of the child. When the investigative agency's first contact with the family has occurred during an emergency in which the child could not safely remain at home, even with reasonable services being provided, the Division will be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

## **INVESTIGATION COMPONENTS**

The child maltreatment investigation will consist of, but is not limited to, completion of a Health and Safety Assessment and interviews with:

- A. Alleged victim;
- B. Parents, both custodial and non-custodial;
- C. If neither parent is the alleged offender, the alleged offender;
- D. Current or past healthcare providers when the allegation of child maltreatment was reported by a healthcare provider; and,
- E. Any other relevant collaterals.

The Health and Safety Assessment is designed to:

- A. Identify Arkansas Health and Safety Factors in the home which affect the child's immediate health and physical well-being.
- B. Guide the Family Service Worker (FSW) in determining whether or not the child can remain safely in the home.
- C. Serve as a structured decision-making tool. For example, information collected on the Health and Safety Assessment can be used to document reasonable efforts or aggravated circumstances. It can also be used to assist in completing the court report, and at important case decision points, or when there are major changes in case circumstances.
- D. Assess the child's health and safety at placement changes if the child is removed from the home.

If the alleged offender is identified as a parent or primary caregiver, the Health and Safety Assessment in the Children's Reporting Information System (CHRIS) will be completed based on the conditions present when the child and the parent or primary caregiver are together in the home. Children ages 0-6, children with developmental disabilities or children who have been repeatedly victimized shall be considered especially vulnerable.

Information to complete the Health and Safety Assessment will be gathered during the child maltreatment interviews. All interviews and the entirety of the Health and Safety Assessment must be completed by the investigator within 30 calendar days of the receipt of the child maltreatment report. The Health and Safety Assessment must be approved by the FSW Supervisor within 45 calendar days of the receipt of the child maltreatment report.

The Health and Safety Assessment is comprised of three components:

- A. Health and Safety Checklist
- B. Safety Planning
- C. Investigation Risk Assessment

The Health and Safety Assessment cannot be closed until both the Health and Safety Checklist and Safety Planning screens are completed.

A description of each of the Health and Safety Assessment sections and their associated actions during an investigation follows:

### ***Health and Safety Checklist***

The Health and Safety Checklist is the first component of the Health and Safety Assessment. It contains the fourteen Arkansas Health and Safety Factors (hereinafter referred to as "safety factors"). Upon the investigation initiation, the primary investigative agency will assess whether or not any of the fourteen safety factors are present. The presence or absence of safety factors must be documented by the primary investigative agency in the Health and Safety Checklist screen in CHRIS within two business days of the investigation initiation. Every subsequent contact with the family should also include an assessment for any safety factors; however, the Health and Safety Checklist is only completed again in the event that additional safety factors are identified and/or facts change.



If CACD is assigned primary on an investigation and, after interviewing the alleged victim, identifies the need for DCFS to complete a safety assessment, the CACD Investigator will immediately contact DCFS to conduct the Health and Safety Assessment (Safety Planning and Investigation Risk Assessment) as appropriate. DCFS will then be assigned as the secondary investigator on that particular investigation.

If CACD is assigned primary on an investigation and does not identify the need for DCFS to conduct a safety assessment, the CACD Investigator is responsible for completing the Investigation Risk Assessment if the allegation is found true and an in-home or out-of-home case will be opened.

If DCFS is assigned primary on an investigation, DCFS will complete all components of the Health and Safety Assessment as appropriate regardless of whether safety factors are identified. The identification of the presence or absence of safety factors is critical to safety planning.

### ***Safety Planning***

Safety Planning is the second component of the Health and Safety Assessment. Safety planning requires specific actions to be taken to ensure a child's safety during the course of an investigation. If a safety factor is identified, there are only two options to implement during the safety planning process:

- A. Develop a protection plan to mitigate the identified safety factors to allow the child remain safely in the home; or,
- B. Remove the child from the home and take protective custody.

These two options are described below:

#### **1) Protection Plans**

##### ***Protection Plan Development and Content***

When any safety factors are present, a protection plan must be developed to address each identified safety factor if the child will remain in the home. A protection plan is a written plan developed by DCFS staff in conjunction with the family to address identified safety factors. The actions and any services needed to address safety factors contained in a protection plan will depend on the dynamics of a particular investigation (and/or case) and the family involved. This documentation describing the actual use or consideration of using protecting interventions establishes reasonable efforts to prevent removal of the child from the home.

Regardless of the actions included in a protection plan, protection planning is a process that occurs with the family and may include the family's selected support network. Protection planning and oversight on the part of the Division continues throughout involvement with the family as long as safety factors are present. The plan must be sufficient to manage and control safety factors based on a high degree of confidence that it can be implemented, sustained, and closely monitored by DCFS (see below for more information). The Division will assure that the roles and responsibilities of the protection plan are clearly described to and discussed with the person providing those services.

A protection plan must be developed and receive DCFS supervisory approval prior to DCFS staff leaving the home. The protection plan serves as a written agreement between the Division and the family. As such, a copy of the plan will be provided to the caregiver and to other members participating in the plan prior to the investigator leaving the home.

However, protection plans may not:

- a) Make a change to the current physical and/or legal custody arrangement of the child; or,
  - b) Otherwise limit the right of a parent or legal custodian to visit/have access to his or her child, including supervised visits,
- unless* a dependency-neglect petition is first filed with the court to address identified safety factors and a corresponding court order is obtained to make a change to the current custody arrangements or

otherwise limit the right of a parent or legal custodian to have access to his or her child. An alternate method of ensuring child safety must be implemented until the required court order is issued to alter custody or visitation arrangements.

To file a dependency-neglect petition to ensure a child's safety in the home, the FSW will contact OCC immediately (or at the start of the next business day if the safety assessment occurred after hours or on the weekend) to request OCC to file the appropriate petition. It is crucial that the FSW Investigator, with support from his or her supervisor, determines exactly what the Division is requesting the court to order, if applicable, to address the identified dependency-neglect issues (i.e., safety factors).

If the requested court order is issued, the FSW Investigator will then craft a corresponding protection plan that reflects the orders of the court as well as any other actions or information that need to be included in the protection plan to ensure child safety. The FSW Investigator will then thoroughly explain the contents of the protection plan to the caregivers and other individuals who may be a part of the protection plan.

#### *Order of Less Than Custody*

An order of less than custody is one action that could potentially be included in a protection plan (once the order is issued), if appropriate. An order of less than custody legally restricts the alleged offender from contact with the child while allowing the child to remain in the home with the non-offending custodian (if the non-offending custodian is already a legal custodian of the child) as part of the protection plan.

In addition to the situation above in which the non-offending custodian is the legal custodian of the child and wants to restrict the alleged offender's access to the child, orders of less than custody may also be applicable to situations in which:

- A. The legal custodian placed or otherwise allowed the child to reside with another person for more than six months; and,
- B. The legal custodian is named as an alleged offender in the investigation; and,
- C. The child's current caretaker and DCFS assess that the legal custodian's (who is also the alleged offender) access to the child poses an immediate danger to the child's health or physical well-being; and,
- D. DCFS has no immediate health or physical well-being concerns with the current placement; and,
- E. DCFS has determined that specific safeguards in the court order will ensure the child's immediate health and physical well-being while remaining in the current home.

The Division will thoroughly assess for safety factors (to be documented in the Health and Safety Checklist) to ensure that a protection plan is in place for a child before leaving that child in a home where DCFS has petitioned the court for an order of less than custody.

To file a dependency-neglect petition to obtain an order of less than custody, the FSW will contact OCC immediately to request OCC to file the appropriate petition.

#### *Protection Plan Documentation*

The Safety Planning screen in CHRIS documents the actions taken to ensure a child's safety during the course of an investigation. If a protection plan is developed, it must be documented in the Safety Planning screen in CHRIS within two business days of the investigation initiation.

If any other actions were taken or services put in place to ensure safety of the child victim or other children in the home, then these activities must also be documented in the Safety Planning screen in CHRIS within two business days.

#### ***Protection Plan Monitoring and Assessment***

All protection plans will be monitored via an initial face-to-face contact with the family (to include alleged victim(s), alleged offender(s), and any other children in the home) within at least 72 hours and then via a minimum of weekly face-to-face contact for the remaining life of the protection plan.

While the health and safety of the child is always assessed each time the Division comes into contact with the child, per A.C.A. 12-18-1001(d)(2)(A)-(B), the health and safety of the child and any corresponding protection plan will be formally reassessed within 30 days of the date on which the protection plan was implemented. If after this formal reassessment is performed, the Division determines that a substantial risk of harm to the health and safety of the child remains and that the protection plan must stay in place to ensure the health and safety of the child, then the Division will file a petition for dependency-neglect (however, note that the Division may file a petition for dependency-neglect at any point to if needed to ensure the health and safety of the child) unless the parent, guardian or custodian is not:

- A. The alleged offender; or,
- B. Alleged to have failed to protect the juvenile.

If a case connect has already occurred, then the assigned FSW Caseworker and FSW Investigator who implemented the protection plan will collaborate to reassess the protection plan and provide the affidavit and a copy of the CFS-200: Protection Plan to OCC to file any necessary petitions for dependency-neglect at 30 days.

#### ***Case Opening, Assessment, and Case Plan as a Result of a Protection Plan Filed with the Court***

For a petition filed as the result of a protection plan, a corresponding case plan will be filed with the court within 30 days per A.C.A. § 9-27-402.

The assigned FSW will continue to monitor the protection plan until it is no longer needed. The assigned FSW will complete the Family Advocacy and Support Tool (FAST) in collaboration with the family, FSW Investigator, and other appropriate stakeholders (see Policy IV-A: Family Assessments for more information regarding the FAST). The FSW Caseworker will also have the primary responsibility of developing the case plan with the family and ensuring the implementation of the case plan (see Policy IV-B: Services Case Plans for more information).

If a reasonable protection plan cannot be developed, then the child must be removed and placed in an approved placement (see below for more information regarding protective custody). Removal must also be documented in the Safety Planning screen in CHRIS within two business days of the act of removal of the child.

If there are risk factors and/or evidence that maltreatment has occurred, but no safety factors are present, then neither a protection plan nor removal of the child is necessary at that point in time. When no safety factors are present, per A.C.A. § 12-18-1009, the parents retain the right to keep the child at home or to place the child outside the home. However, as appropriate, the FSW Investigator may make referrals or provide services during the course of the child maltreatment investigation to address any risk factors. All referrals made and/or services provided during the course of the child maltreatment investigation shall be documented in the Investigation Finding screen in CHRIS.

#### **2) Protective Custody**

If a safety factor is identified in the home and it cannot be mitigated with the implementation of a protection plan, the Division must remove the child from the home and take protective custody. This requirement applies to any point during a child maltreatment investigation or open case when the health and physical well-being of a child are in immediate danger. When a child is taken into protective custody, the child shall be placed in an appropriate licensed or approved placement. This may include an identified relative or fictive kin (fictive kin means a person selected by the Division of Children and

Family Services who is not related to the child by blood or marriage, and has a strong, positive, and emotional tie or role in the child's life or the child's parent's life if the child is an infant) home if it is in the best interest of the child and all criteria for opening a provisional foster home and placing the specific child for whom the provisional foster home was opened have been met (see Policy VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care and Policy VII: Development of Foster Homes for more information).

The Division may file a motion to transfer any other prior or subsequent legal proceeding concerning the juvenile (e.g., if a relative of the child taken into custody attempts to obtain guardianship or custody of the juvenile) to the court that is hearing the dependency-neglect petition if the Division:

- A. Takes a 72-hour hold; or,
- B. Files a petition for ex parte emergency order; or,
- C. Files a petition for dependency-neglect.

#### ***Investigation Risk Assessment***

The Investigation Risk Assessment is the third component of the Health and Safety Assessment. It is designed to:

- A. Assess the family's level of risk during the child maltreatment investigation.
- B. Establish a baseline level of risk for a family.
- C. Identify the factors and circumstances that indicate the child may be at risk of future abuse or neglect.
- D. Indicate the necessary level of involvement to assure the child's well-being.
- E. Provide a structured decision-making tool in case planning (the investigation risk assessment informs the case plan if a case is opened after the completion of the investigation).

The Investigation Risk Assessment in CHRIS will be completed on all cases with a child maltreatment determination of "True." As such, the Investigation Risk Assessment must be completed by the investigator within 30 calendar days of receipt of the hotline report and must receive supervisory approval within 45 calendar days of receipt of the hotline report.

Levels of risk are classified as intensive, high, moderate, and low. The higher the score, the higher the risk of future harm. The level of risk determined during the Investigation Risk Assessment will be considered the baseline level of risk for any subsequent case that is opened, if applicable.

Overrides to Risk Levels have been established to assist the FSW in ensuring that the level of risk for a case accurately reflects the risk level for the children. A supervisor is allowed to make discretionary policy overrides when a unique circumstance warrants a higher risk level than assigned by the risk level chart.

The discretionary Risk Level Override options are listed below and require the supervisor to upgrade the risk level to Intensive at the initial investigation, regardless of the risk scale score.

- A. Sexual abuse cases where the perpetrator is likely to have access to the victim child.
- B. Cases with non-accidental physical injury to an infant.
- C. Serious non-accidental physical injury requiring hospital or medical treatment.
- D. Death (previous or current) of a sibling as a result of abuse or neglect.

Risk Level Overrides must be reassessed when the case plan is updated.

#### **RIGHTS OF INVESTIGATOR**

The investigator has the right to obtain a criminal background check, including a fingerprint-based check in any national crime database, on any subject of the report. The results of the criminal background check will not be disclosed outside of the Department except as permitted under A.C.A. §12-18-612.

In accordance with A.C.A. § 12-18-613, on request by the investigating agency, any school, child care center, child care facility, residential facility, residential treatment facility, or similar institution shall provide the investigator with the name, date of birth, Social Security number, and last known address and phone number of

any alleged offender if the alleged maltreatment occurred at that school, center, or facility. Any school, child care facility, residential facility, or similar institution shall also provide the person conducting the investigation with the name and address of any witness to the alleged child maltreatment if the alleged child maltreatment occurred at that school, center, or facility.

The FSW or CACD Investigator conducting the child maltreatment investigation also has the right to enter into the home, school, or other place for the purpose of conducting an interview or completing the investigation. The investigator also has the right to request accompaniment by a law enforcement agent while conducting the investigation. If the investigator is denied access into the home, school, or other place for investigative purposes, then the investigator must prepare an affidavit to submit to OCC in order to request an Order of Investigation. If the investigator is denied access into the home, school, or other place and has reason to believe a child's health or safety are in immediate danger, the investigator will call local law enforcement immediately (if not already accompanied by LLE) in order to help gain access into the home.

No publicly supported school, facility, or institution may deny access to any person conducting a child maltreatment investigation. DCFS, CACD, and law enforcement shall be allowed access to the child's public and private school records during the course of the child maltreatment investigation. School district staff shall not provide notification if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in place of a child's parent is named as an alleged offender and the interviewer requests that the school personnel does not make said notification.

Per A.C.A. § 12-18-604, DHS may petition a circuit court to allow an investigator to access the controlled substance database if the investigator demonstrates probable cause that the alleged offender has one or more prescription drugs, and the baby or the alleged offender tested positive for prescription drugs at the time of the birth of the baby.

The investigator will have the discretion, in the child's best interest, to limit the persons allowed to be present when a child is being interviewed concerning an allegation of child maltreatment. The investigator will determine when a child or any other children residing in the home should be referred to a physician, psychologist, or psychiatrist for a medical or psychological examination. While DCFS staff may conduct drug screens on teenagers when necessary, all children younger than 13 should be referred to a physician or medical facility for drug screening if needed.

DCFS will fully cooperate and participate in multidisciplinary child maltreatment response teams. All information except the name of the reporter may be disclosed to the teams.

#### **INTERPRETER SERVICES**

At any point during the course of a child maltreatment investigation, when the person being interviewed cannot clearly communicate in English, the investigator shall arrange for an interpreter before continuing the interview. The interpreter must be trained and appropriately certified to translate the specific language needed.

If at any point during the course of a child maltreatment investigation, the investigator cannot determine whether the person being interviewed can clearly and effectively communicate in English, the interviewer shall end the interview. The interview shall recommence when a determination is made that the person can or cannot clearly communicate in English, and when necessary, a translator certified to translate the specific language has been obtained to facilitate clear communication. Family members should never serve as interpreters for an investigator conducting an interview.

If any delay in obtaining investigation or investigative information from having to make a determination about language and clear communication results in or creates a situation in which the alleged victim child's health or physical well-being will be put in immediate danger, the child will be placed in 72-hour protective custody.

#### **INVESTIGATION COMPLETION TIMEFRAMES AND EXTENSIONS**

Regardless of whether the child maltreatment investigation is conducted by DCFS, CACD, or local law enforcement, the supervisor approved investigative determination shall be made within 45 calendar days.

The Area Director or designee may request an extension of an additional 15 calendar days (for a total investigative timeframe of 60 calendar days) to complete the investigation and make a determination if good cause for the requested extension is shown. Circumstances that meet the definition of good cause, as it pertains to requesting and granting a 15 day extension to make an investigative determination, include but are not limited to:

- A. The Prosecuting Attorney or law enforcement officials have requested that DCFS postpone the determination due to a pending criminal investigation;
- B. Medical, crime lab, or autopsy reports needed to make a determination have not been received;
- C. The report involves some out-of-state subjects and interview write-ups have not been received;
- D. Conflicting medical opinions have been received, requiring further analysis; or,
- E. Multiple alleged offenders or victims are involved, requiring additional time to conduct interviews and gather evidence.

Documentation supporting the request for the extension must be submitted with the request.

All extension requests must be submitted to and approved by the Assistant Director of Community Services or designee.

#### **INVESTIGATIVE DETERMINATIONS AND RESULTING REFERRALS AND CASE OPENINGS**

Within the appropriate timeframes outlined above and utilizing PUB-357: Child Maltreatment Assessment Protocol, a child maltreatment investigation will be determined to be:

- A. Unsubstantiated
- B. True
- C. True but exempt for:
  - 1) Garrett's Law (as defined by A.C.A. § 12-18-103(14)(B))
  - 2) Religious beliefs
  - 3) Underaged juvenile offenders
- D. Inactive.

The criteria for each of these determinations are as follows:

##### ***Unsubstantiated Determination***

A child maltreatment investigation will be determined unsubstantiated in the event that:

- A. The allegation of child maltreatment is not supported by a preponderance of the evidence following an investigation by Division staff.
- B. The investigation concludes the injuries were the result of reasonable and moderate physical discipline inflicted by a parent or guardian for the purpose of restraining or correcting the child.

##### ***True Determination***

A child maltreatment investigation will be determined true in the event of:

- A. An admission of the fact of maltreatment by persons responsible;
- B. An adjudication of dependency-neglect;
- C. A determination of the existence of maltreatment by Division staff, based on a preponderance of the evidence;
- D. A medical diagnosis of failure to thrive. The Family Service Worker should, however, complete the Child Maltreatment Investigation in accordance with the procedures included to determine the identity of the caretaker and to conduct an investigation of the family for the purposes of determining appropriate service delivery;
- E. Any other medical or legal form of confirmation deemed valid by the Division.

If a report is determined to be true, the names and conditions of any minor children of the alleged offender, and whether these children have been maltreated, or are at risk of maltreatment, will be determined. If the report is determined to be true, and is a report of sexual intercourse, deviate sexual activity, or sexual contact, an investigation of any other children previously or currently under care of the alleged offender, to the extent practical, and whether these children have been maltreated, or are at risk of maltreatment, will be determined. The worker conducting the investigation shall also seek to ascertain all other relevant data.

If a report is determined to be true and involves any children under the age of three, those children must be referred to the Division of Developmental Disabilities Children's Services for an early intervention screening per the Child Abuse and Prevention Treatment Act (CAPTA) if the children were not already referred during the course of the investigation (see Policy II-I: Early Intervention Referrals and Services and related procedures for more information).

If a report of sexual abuse is determined to be true and the alleged offender is under the age of 18 at the time the act or omission occurred, the parents or legal guardians of the alleged juvenile or underaged juvenile offender and victim shall be provided with a list of mental health professionals or agencies available to evaluate and treat the alleged juvenile offender or underaged juvenile offender and victim, if necessary. Providing this information does not necessarily require the Division to pay for the mental health evaluation and/or any subsequent mental health treatment or services.

#### *True but Exempt Determination*

The following types of cases may be found true but exempt from placement on the Child Maltreatment Central Registry. The Division may open a protective services case for any investigative determination of true but exempt.

#### *Garrett's Law Exemptions*

A child maltreatment investigation that documents the presence of an illegal substance in either the bodily fluids or bodily substances in the mother or child at the time of birth resulting from the mother knowingly using any illegal substance (i.e., Garrett's Law case) will be found true but exempt and will not be placed on the child maltreatment registry. A protective services case shall be opened to establish a plan of safe care.

If the FSW determines on an individual basis the child's health or physical well-being is in immediate danger, he or she should take the newborn into protective custody. The FSW must also assess any siblings of the newborn or other children under the care of the alleged offender. If it is determined that there is an immediate danger to the siblings' (or any other children under the care of the alleged offender) health or physical well-being, then they must also be brought into emergency 72 hour protective custody.

"Acceptable" reporters include any one of the following mandated reporters, who have reasonable cause to suspect that a newborn has been subjected to an illegal substance before birth or the mother had an illegal substance in her bodily fluids or bodily substances at the time of the birth:

- licensed nurse;
- osteopath;
- physician;
- medical resident or intern;
- surgeon;
- hospital social worker;
- or, any medical personnel who may be engaged in the admission, examination, care or treatment of persons in hospitals or similar medical settings.

During the course of an investigation, or when DCFS has custody, if the mother or newborn has tested positive for the presence of an illegal substance in the bodily fluids or bodily substances, and the mother indicates that she wants to place the newborn for adoption through a private agency or private entity, the Family Service

Worker must contact OCC immediately. If the infant is placed with a private adoption agency, then do not open a Protective Services case.

#### **Religious Belief Exemptions**

A child maltreatment investigation will be determined to be true but exempt due to religious beliefs exemption in the event that the Family Service Worker determines that the parent's decision to withhold medical treatment was based solely upon a religious belief, choosing instead to furnish the child with prayer and spiritual treatment in accordance with a recognized religious method of healing by an accredited practitioner.

A Family Service Worker will place a child whose health or physical well-being is in immediate danger in a safe environment in DHS custody regardless of the beliefs of the parents. The religious exemption does not preclude the FSW's right and responsibility to take appropriate action, including petitions to the court, to obtain necessary medical services.

#### **Underaged Juvenile Offender Exemptions**

A child maltreatment investigation will have an individual finding of true but exempt for underaged juvenile offenders if there is an overall true finding of sexual abuse by a child under the age of 14 to another child.

#### **Inactive Determination**

Per A.C.A. § 12-18-619, a Child Maltreatment Investigation will be determined inactive if at any time before or during the investigation the Department is unable to locate or identify the alleged offender because the alleged child maltreatment occurred:

- A. More than 5 years ago; or,
- B. In another state.

Failure to complete the investigation within the required 45 days is NOT a reason to place a case on inactive status. The report MUST document why the investigation could not be completed. A case will remain on inactive status for one year, at which time it will be expunged.

#### **INVESTIGATIVE DETERMINATION NOTICES**

The Division Children and Family Services Central Office Notifications Unit will issue notices regarding the child maltreatment investigative determination whether true or unsubstantiated to all persons pursuant to A.C.A. § 12-18-703 et seq. The Division will issue notices in such a way as to ensure the rights to due process of the alleged offender and to protect others who may be at risk of harm from the alleged offender (see Policy XIV-A: Notices Regarding Child Maltreatment and related procedures for more information and specific instructions). The Central Office Notifications Unit will also handle all notices related to administrative hearing decisions and placement on the Child Maltreatment Central Registry.



## PROCEDURE II-D8: Health & Safety Checklist

11/2018

The FSW Investigator or the (CACD) Investigator (depending on which agency is assigned as primary) will:

- A. Identify any safety factors that may contribute to the immediate danger of the child's health or physical well-being.
  - 1) If CACD is assigned primary and after interviewing the alleged victim identifies one or more safety factors, contact the DCFS supervisor or designee immediately to conduct a Health and Safety Assessment (i.e., Safety Planning and Investigative Risk Assessment).
    - a) If after completing the Health and Safety Assessment as requested by CACD, the FSW Investigator assesses that there is not a safety factor involved, the FSW Investigator will:
      - i. Document in an investigations contact why the FSW Investigator determined there was not a safety factor and, as such, why the FSW Investigator did not select to implement a protection plan or remove the child.
      - ii. Communicate with the CACD Investigator regarding both the CACD initiation and the DCFS safety assessment including why the FSW Investigator determined there was not a safety factor present.
      - iii. Document the communication between CACD and DCFS in an investigations contact.
- B. Complete the Health and Safety Checklist for each child in the family by identifying the presence or absence of any safety factors by checking "yes" or "no", respectively within two business days.
- C. Provide narrative documentation on the Health and Safety Checklist for each safety factor identified.
- D. In cases involving CACD as primary and DCFS as secondary, both agencies will collaborate to ensure that DCFS has all relevant information needed to conduct the Health and Safety Assessment (i.e., Safety Planning and Investigation Risk Assessment; see Procedures II-D9 and II-D10, respectively, for more information).

## PROCEDURE II-D9: Safety Planning

11/2018

The FSW investigator will:

- A. Make the appropriate child protecting decisions if the child's health or physical well-being are in immediate danger.
- B. If a safety factor is not identified on the Health and Safety Checklist, but it is determined that services or other actions can be put in place to address risk factors or otherwise strengthen the family during the course of the investigation:
  - 1) Implement the services or other actions accordingly.
  - 2) Document services provided or other actions taken in the Service Log and investigation contact screen in CHRIS.
    - a) If all of the statements on the Health and Safety Checklist screen are selected "no," then the default decision on the Safety Planning screen will be "safe" indicating that there are no children whose health or physical well-being are likely to be in immediate danger. As such, the FSW will not have to enter any information in the Safety Planning screen.
- C. If a safety factor(s) is/are identified, establish the appropriate protecting intervention for each identified safety factor.
  - 1) If a protection plan can be put into place to mitigate the identified safety factor(s):
    - a) Determine the suitability of the person or persons responsible for carrying out the protection actions by assuring that those persons:
      - i. Are present and participate in the development of the protection plan;
      - ii. Are fully informed about the safety factors and concerns;
      - iii. Understand and accept their responsibility to protect the child;
      - iv. Accept and believe that the safety factors and potential dangers exist;
      - v. Are available in terms of time and accessibility;
      - vi. Are aligned with and responsive to DCFS;
      - vii. Are trustworthy, dependable and have no substance use, mental health issues, or other major life issues that may prevent them from meeting their responsibilities in the plan; and,
      - viii. Provide a home that is suitable and safe if the child will be staying there.
    - b) Assure that the protection plan is sufficient to manage and control identified safety factors and prevent subsequent dangers to the child by meeting the following criteria:
      - i. Does not rely on promises from caregivers or court orders prohibiting behaviors;
      - ii. Focuses on enhancing caregiver protective capacities as the highest priority for change;
      - iii. Includes immediate supports and/or services that have an impact on controlling identified safety factors;
      - iv. Is individualized to the needs and dynamics of the family and the specific safety factor(s) identified;
      - v. Has a mechanism for ongoing oversight and monitoring by the FSW that allows FSW to provide feedback to the family and problem solve with the family as needed; and,
      - vi. Is time limited noting when each activity must be completed or in place and when the plan should expire.
    - c) If applicable, inform the non-offending caretaker of the right to file a petition in accordance with the "Domestic Abuse Act," Ark. Code Ann. § 9-15-101 et seq. in Circuit Court to have the offender removed from the home as part of the protection plan.
    - d) Before leaving the home, obtain supervisory approval of the protection plan developed with the family.

- e) Provide a copy of the protection plan with the family via CFS-200: Protection Plan before leaving the home.
- f) Refer the family to the local TDM Facilitator for a Team Decision Making (TDM) meeting within two hours of putting a protection plan in place, if applicable (i.e., if working in a county in which TDM has been implemented; see Policy II-F: Team Decision Making for more information).
  - i. If a TDM Meeting will be held regarding the protection plan, and it is determined a petition for dependency-neglect is needed in association with the protection plan, then the affidavit (to include information from the TDM Meeting Summary Report) must be submitted to the local OCC attorney in order to file the petition with the court within two business days following the TDM Meeting.
- g) Document the protection plan in CHRIS on the Safety Planning screen and otherwise complete the Safety Planning screen in CHRIS for any safety factors that have been identified within two business days of investigation initiation.
- h) For investigations remaining open longer than 30 days, formally reassess the health and safety of the child within thirty (30) days of the date on which the protection plan was implemented;
  - i. If the formal reassessment determines that a substantial risk of harm to the health and safety of the child remains, then submit the affidavit and a copy of the CFS-200: Protection Plan to OCC to file a petition for dependency-neglect.
- i) If at any point a petition for dependency-neglect is filed in relation to a protection plan, then within five days of the petition being filed, accompany the assigned FSW caseworker to the family's home to begin the Family Advocacy Support Tool (FAST) assessment.
- 2) If a protection plan cannot be put into place to mitigate the identified safety factor(s), then the children must be removed from the home and placed in an approved placement.
- 3) For all safety factors with a "yes" response, there should be corresponding documentation in the Safety Planning screen indicating if:
  - a) A written, supervisor-approved protection plan was developed with and provided to the family via CFS-200: Protection Plan thereby allowing the child to remain safely in the home (select the appropriate radio button on the first question in the Safety Planning screen);
    - i. The safety decision on the Safety Planning screen will then be "Conditionally Safe," meaning a protection plan has been implemented and interventions outlined in the protection plan have resolved the unsafe situation for the present time.
  - b) The child was removed from the home.
    - i. The safety decision on the Safety Planning screen will then be "Unsafe" meaning a protection plan could not be established so removal is the only protecting intervention for the children (i.e., without it, the children's health or physical well-being are likely to be in immediate danger).
- F. Document in CHRIS all other FSW activities, services, and/or contacts associated with the investigation.
- G. Monitor family's implementation of Protection Plan, if one has been put in place, via face-to-face contact with family within at least 72 hours and a minimum of weekly face-to-face contact while the plan continues to be necessary to protect the health and safety of the juvenile.
- H. If during the course of an investigation a protection plan is put into place by DCFS, but the investigation is ultimately unsubstantiated and/or the court dismisses the petition associated with the protection plan, the FSW investigator will ensure the protection plan is reassessed with the family and communicates with other involved DCFS staff as applicable.

*Note: While a protection plan must be developed during the course of an investigation if a safety factor is identified and the child is to be left in the home, protection plans will also be amended as necessary and/or developed after a protective services case is opened if a safety factor is identified.*

The FSW Supervisor will:

- A. Conference with the FSW investigator regarding the protection plan as needed.
- B. Approve the protection plan, as appropriate, prior to the FSW investigator leaving the home.
- C. Communicate as necessary with other DCFS staff to ensure an FSW caseworker is assigned to families for whom a protection plan has been implemented that has an accompanying court order for dependency-neglect.
- D. Approve the Safety Planning screen as appropriate within 45 days of receipt of the hotline report.
- E. Communicate as necessary with DCFS staff to ensure that the protection plan is formally reassessed at thirty (30) days, and, if needed due to a substantial risk of harm to the child's health and safety remaining, a petition for dependency-neglect is filed.

When a protection plan that has an accompanying dependency-neglect petition filed with the court has been put into place the assigned FSW caseworker will:

- A. Accompany the FSW investigator to the family's home within five days of the filing of the petition to begin completing the Family Advocacy Support Tool with the family and FSW Investigator.
- B. Ensure other appropriate stakeholders provide input when completing the FAST (see Policy IV-A: Family Assessments for more information).
- C. Develop a case plan with the family based on the ratings of the FAST (see Policy IV-B: Services Case Plan for more information) within 30 days of the dependency-neglect petition being filed.
- D. Update CHRIS contacts as needed.