

# **The Department of Children and Families Changed its Practices to Limit Access to Child Welfare Services Without Notifying Stakeholders**

## ***INVESTIGATIVE REPORT***

*Issued February 8, 2023*



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# I. Introduction

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OSC initiated this investigation in February 2022, in response to numerous complaints alleging that the Department of Children and Families (DCF or the Department) had changed its policies or practices on how it responds to allegations of child-on-child sexual activity and child sexual abuse by non-caregivers. The complainants alleged that DCF had stopped accepting these cases for intake and services by the Division of Child Protection and Permanency (DCPP), the division within DCF charged with child protection and child welfare, and that it did so without providing notice to law enforcement and multi-disciplinary teams (MDTs) that had previously coordinated their response to these types of cases. The complainants further alleged that as a result of these changes, and because of the lack of coordination and notice, the children involved in these cases were not receiving appropriate services and interventions.

As part of this investigation, OSC spoke with representatives of DCF and DCPP; took sworn testimony; and collected and reviewed internal correspondence and data collected by the State Central Registry (SCR), which is also known as the State child abuse hotline. OSC also interviewed various stakeholders from the MDTs and reviewed DCF's governing statutes, regulations, and agency policies, along with the case law interpreting them.

Through this investigation, OSC obtained internal DCF documents corroborating that in early 2020, DCF changed its practices with regard to how it handled allegations of child-on-child sexual activity (including sexual assault) and child sexual abuse by non-caregivers. Historically, DCPP responded to these cases by either opening a "child protective services" (CPS) case or a "child welfare services" (CWS) case, both of which would involve the assignment of caseworker for investigation and/or assessment. After this change in its practices, with little exception, DCPP stopped accepting these cases for a CPS or CWS response. OSC found internal training documents that showed that DCF had instructed the screeners employed at SCR to code these cases for "information and referral" (I&R) only—and not to open a CWS or CPS case. These changes to the intake and screening process were not communicated to law enforcement or DCF's other MDT partners, creating confusion and concern among stakeholders about how to handle these cases.

As a result of DCF's new practices, OSC found that a significant number of children did not receive services and interventions that had previously been provided by DCPP. According to an analysis provided to OSC by DCF in April 2022, during the five-month period between September 2021, when the changes were fully implemented, and January 2022, at least 123 children were reported to the SCR hotline as having been involved in inappropriate sexual activity, including child-on-child sexual assaults, and no caseworkers from DCPP were assigned to handle any of the cases. Instead, SCR referred them to DCF's Children's System of Care (CSOC), another DCF division, for families to seek out services on their own.

In addition, in July 2022, OSC also learned that, in April 2022, representatives of the law enforcement community provided DCF a second list of over 30 cases, with the intent of showing DCF and others the adverse impact of the new practice on children. This list was made up of

cases in which DCPD had allegedly refused to assign a caseworker and provide the services that DCPD had historically provided. In one such case, a parent reported ongoing sexual assault involving siblings to DCF's hotline but DCF did not intervene or assign a caseworker. Previously, DCF would have opened a CPS or CWS case, directed a DCPD caseworker to assess the situation in the home, evaluate whether the aggressor child (an 11 year old) was also being abused, and determine whether both children would have been safe remaining there together. Instead, it was not until law enforcement was separately notified about the ongoing assaults and became involved – and DCPD again declined to intervene – that action was taken to separate the children. The prosecutor then charged the child aggressor criminally, which enabled a judge to order a safety protection plan to separate the children.

Through this investigation and OSC's review of the relevant statutory authority and case law, OSC finds that coordination, notice, and transparency are vital to ensuring child welfare and protecting children from abuse. The Legislature and the courts have made this clear. For these reasons, and as set forth more fully below, OSC makes six recommendations that will provide greater transparency about DCF's current policies and practices and help ensure any impacted children and families receive appropriate services.

In response to OSC's investigation and the findings in this report, DCF contends that it has not changed its policies or practices with regard to how it handles cases of child-on-child inappropriate sexual activity and child sexual abuse by non-caregivers. OSC's investigation, however, found that DCF's handling of these cases had – very intentionally – changed during the period under review. DCF simultaneously contends that cases involving child-on-child inappropriate sexual activity (including sexual assault) and child sexual abuse by non-caregivers fall outside of DCF's statutory authority. OSC's review of the relevant statutes and case law show that DCF does have this authority, even if it has made a choice not to exercise it. DCF also points to several safeguards that it has put in place during the course of this investigation that it contends would address these issues. OSC has not reviewed the effects of these safeguards and whether they adequately address the issues identified in this report.

## II. Background

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In July 2006, DCF was established as New Jersey's first Cabinet-level department dedicated to serving and safeguarding the State's most vulnerable children and families. To accomplish this important mission, the Legislature empowered DCF to act under broad statutory authority that it set forth in "Title 9" and "Title 30."<sup>1</sup> The purpose of these child protection laws "is to provide for the protection of children under 18 years of age who have had serious injury inflicted upon them by other than accidental means"; to ensure those "children are immediately safeguarded from

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<sup>1</sup> See N.J. Dep't Child & Family Servs. v. I.S., 214 N.J. 8, 13-15 (2013).

further injury”; and to ensure their legal rights “are fully protected.”<sup>2</sup> Leading this work within DCF, is DCPD – “New Jersey’s child protection and child welfare agency.”<sup>3</sup>

## A. DCF’s Statutory Authority to Protect Children

Through Title 9, the Legislature has expressly required DCPD, a division within DCF, to investigate allegations of child abuse and “immediately take such action as shall be necessary to insure the safety of the child.”<sup>4</sup> Title 9’s main focus is not the culpability of a caregiver’s conduct, but rather the protection of children.<sup>5</sup> Title 9 is concerned both with actual harm, as well as the threat of harm.<sup>6</sup> Neither DCPD nor the court is required to wait to act until a child is actually irreparably impaired by a caregiver’s abuse, inattention, or neglect.<sup>7</sup>

Title 30 establishes that DCF’s power to protect children is not limited to those instances in which DCPD can prove that a child meets the technical definition of an abused or neglected child under Title 9.<sup>8</sup>

Under Title 30, DCPD has the authority to intervene with families when there is no abuse or neglect by a caregiver, but a child needs services and their caregiver “cannot provide that help for no fault-based reason.”<sup>9</sup> This intervention can be accomplished with or without a parent’s voluntary consent. Title 30, section 11 allows the Division to assist a parent who voluntarily consents to services, while section 12 “applies when there is no voluntary parental consent to Division care and supervision.”<sup>10</sup> In those instances in which a parent does not consent, but a child needs services to ensure their health or safety, the Division has the ability to step in and provide those services.<sup>11</sup>

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<sup>2</sup> N.J. Div. Youth & Family Servs. v. H.B., 375 N.J. Super. 148, 178 (App. Div. 2005) (quoting N.J.S.A. 9:6-8.8(a)); see also S.C. v. N.J. Dep’t Children & Families, 242 N.J. 201, 224 (2020).

<sup>3</sup> <https://www.nj.gov/dcf/about/divisions/dcpd/> (last visited February 6, 2023).

<sup>4</sup> N.J.S.A. 9:6-8.11; see also In re Allegation of Physical Abuse Concerning L.R., 321 N.J. Super. 444, 449 (App. Div. 1999).

<sup>5</sup> Dep’t of Children & Families, Div. of Child Prot. & Permanency v. E.D.-O., 223 N.J. 166, 178 (2015) (quoting G.S. v. Dep’t of Human Servs., 157 N.J. 161, 177 (1999)).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Compare N.J.S.A. 9:6-1 (broadly defining child abuse), with N.J.S.A. 9:6-8.9 (defining “abused child” which requires a caregiver be responsible for the abuse).

<sup>9</sup> I.S., 214 N.J. at 15.

<sup>10</sup> 214 N.J. at 14; see also N.J.S.A. 30:4C-11; N.J.S.A. 30:4C-12.

<sup>11</sup> To do this, the Division is required to follow a multi-step process that includes an investigation into the oral or written referral that convinces the Division that the referral was justified, and an application to the Superior Court, Family Part to obtain a court order for services needed to ensure the child’s health or safety. 214 N.J. at 35 (establishing that culpability of a parent is not required before Division can make an application under Section 12, and emphasizing the multi-step process set forth in the statute sets important limits that “prevent the Division from becoming a roving commission to inquire into families’ personal lives”); see also N.J.S.A. 30:4C-11; N.J.S.A. 30:4C-12.

The Legislature also expressed its intent to protect children by requiring that “[a]ny person having reasonable cause to believe that a child has been subjected to child abuse, including sexual abuse, or acts of child abuse shall report the same immediately to [DCPP] by telephone or otherwise.”<sup>12</sup> In other words, the Legislature has required everyone — not just trained professionals — to act to protect children when there is reasonable cause to believe a child has been subjected to physical or sexual abuse by another person.<sup>13</sup>

Upon receipt of such report, there is no requirement that an investigation be started or completed before DCPP can offer services to a child and their family. Instead, DCF’s regulations specifically provide that “[t]he Department representative shall offer the family services that are needed on an emergency basis pursuant to N.J.S.A. 30:4C-13 and 9:6-8.11, before completing the child protection investigation and until the child protection investigation is completed.”<sup>14</sup>

## B. Law Enforcement’s Role in Protecting Children

Law enforcement has an important but distinct role in protecting children, and its interests differ from those of DCF and DCPP. Law enforcement is primarily focused on the criminal culpability of those accused of abusing and neglecting children, while DCPP’s primary interest is in ascertaining the veracity of abuse and neglect allegations and taking action to safeguard abused children from further harm.<sup>15</sup>

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<sup>12</sup> N.J.S.A. 9:6-8.10 (“Report of Abuse”); see also N.J.S.A. 9:6-8.12 (“The Division . . . shall maintain, at all times, an emergency telephone service for the receipt of calls involving a report, complaint, or allegation of child abuse or neglect”).

<sup>13</sup> N.J.S.A. 9:6-8.10. Compare N.J.S.A. 9:6-1 (setting forth what constitutes child abuse and child cruelty — which does not require that the acts be committed by someone “having the custody or control of the child,” — with what constitutes abandonment, and neglect, which requires the acts or omissions by someone who has that status), with N.J.S.A. 9:6-8.9 (defining “abused child” as someone under 18 years of age “whose parent, guardian, or other person having his custody and control” committed certain enumerated acts).

<sup>14</sup> N.J.A.C. 3A:10-6.1 (“Services on an emergency basis”); see also CPP-II-C-2-200 (providing “[t]he initial response may include the provision of services needed on an emergency basis” and directing caseworkers to “[i]nitiate intervention under the umbrella of the agency’s mission, to ensure the safety, permanency, and well-being of children and to support families”).

<sup>15</sup> Div. Youth & Family Servs. v. Robert M., 347 N.J. Super. 44, 63 (App. Div. 2002) (quoting State v. P.Z., 152 N.J. 86, 100 (1997)), and recognizing the Division’s interest in investigating allegations of abuse and neglect under N.J.S.A. 9:6-8.11 to -18 is “to ascertain their veracity” and to “take action to safeguard abused children from further harm,” while “[t]he interest of law enforcement is different since the focus is the criminal culpability” of those accused of abusing or neglecting the children); State v. D.V., 348 N.J. Super. 107, 115 (App. Div. 2002) (“[T]he primary concern of Title 9 is protection of children . . . while the focus of the Criminal Justice Code is in fact the culpability of those accused.”). But see N.J.A.C. 3A:10-1.4 (setting forth as “general policy” that “the primary concern of all public agencies involved with abuse and neglect is to ensure the best interests of the child. Other considerations, such as the objective of maintaining family integrity, promoting family functioning, or the concern for traditional ‘parental rights,’ are secondary”).

There is also different legal authority that governs how law enforcement can respond to child abuse and neglect allegations,<sup>16</sup> and law enforcement and DCPD have different tools at their disposal. For example, only law enforcement can make an arrest and criminally prosecute. And only DCPD can initiate a safety protection plan and, when warranted, emergently remove a child from the home without judicial involvement.<sup>17</sup> But the systems are intended to work in tandem to protect children.<sup>18</sup>

## C. A Multidisciplinary Approach to Child Protection

The Legislature determined, in 2001, and then reaffirmed in 2006, that a coordinated and multidisciplinary approach to the problem of child abuse and neglect is necessary, and established county-based MDTs to “work in conjunction with the county prosecutor and the Department of Children and Families in the investigation of child abuse and neglect.”<sup>19</sup> As described in the statute, each MDT “shall consist of representatives of the following disciplines: law enforcement; child protective services; mental health; substance abuse identification and treatment; and medicine,” as well as a representative from a child advocacy center in those counties where one has been created. According to the statute, “[t]he county team shall provide: facilitation of the investigation, management and disposition of cases of criminal child abuse and neglect; referral services to the regional diagnostic center; appropriate referrals to medical and social services agencies; information regarding the identification and treatment of child abuse and neglect; and appropriate follow-up care for abused children and their families.”<sup>20</sup>

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<sup>16</sup> Compare N.J. Youth and Family Servs. v. Wunnenburg, 167 N.J. Super. 578, 582-87 (1979) (permitting agency to conduct reasonable administrative search of home over concerns for child well-being over parents’ objection), with State v. Vargas, 213 N.J. 301, 321-26 (2013) (explaining the police community caretaking function is narrow and cannot be used to justify warrantless searches of a home); see also State v. Hemenway, 239 N.J. 111, 134 (2019) (recognizing that probable cause is different in the civil context than in the criminal context, and the probable cause standard must be adapted when the legislative scheme is civil in nature).

<sup>17</sup> See, e.g., CPP-III-B-6-600 (Structured Decision Making) (detailing policies for safety assessments and safety protection planning and monitoring); N.J. Dep’t of Children & Families, Parents’ Handbook, at 3, (CP&P 18-32, rev. 4/17), [https://www.nj.gov/dcf/families/dcpp/ParentsHandbook\\_English.pdf](https://www.nj.gov/dcf/families/dcpp/ParentsHandbook_English.pdf) (explaining that “[i]f your child must be removed from your home, CP&P may ask you to identify family members or friends who can care for your child. In the small number of cases in which CP&P determines a child is at immediate risk or harm, we will ask the court for permission to remove a child and provide an immediate placement either with family members or a foster home. In an emergency, CP&P can remove a child before getting the court’s permission, but is required to appear in court to request approval within two court days of the child’s removal”) (last visited February 6, 2023).

<sup>18</sup> “The criminal justice system acts separately but in tandem with the civil system to investigate and prosecute those who abuse or neglect children.” Robert M., 347 N.J. Super. at 63 (quoting State v. P.Z., 152 N.J. at 100).

<sup>19</sup> See N.J.S.A. 9:6-8.104.

<sup>20</sup> Ibid.; see also N.J.S.A. 9:6-8.107 (setting forth findings and declarations relative to child advocacy centers and multidisciplinary teams and highlighting the importance of “a coordinated response to the investigation, treatment, prosecution, and prevention of child abuse and neglect”).



In early 2007, a coordinated response protocol (the DCF/Law Enforcement Model Coordinated Response Protocol) was developed for handling child abuse and neglect allegations and investigations that further solidified the cooperative relationship between DCF and law enforcement and addressed the role of the MDTs.<sup>21</sup> Among other things, the agreement set forth the mutual understanding that “[o]nce a report of child sexual abuse and/or physical abuse or neglect has been made,” law enforcement and DCF have the shared goal of promoting “the best interests of the child or children involved in the report and to conduct the investigation in an expeditious manner.”<sup>22</sup> And in cases involving possible criminal charges, a coordinated response will follow “to the extent possible to make sure that the child or children who are the subject of the report are protected from any further possible abuse.”

This coordinated response protocol emphasized that the MDTs “provide a means for initial and periodic review of cases within the system, so that victims and their families receive appropriate supports throughout the criminal justice process.”<sup>23</sup> The protocol recognized, however, that criminal prosecution will not be appropriate in all cases, but that decision alone does not dictate whether a case will remain open with the MDT. Instead, cases can be kept open for additional review by DCF if necessary. They can also be kept open if there are medical or therapeutic issues that still need to be addressed on an ongoing basis.<sup>24</sup> The MDTs facilitate the ongoing sharing of information between the MDT members to ensure appropriate interventions and outcomes. This coordinated protocol remains in effect today, through DCF’s duly promulgated regulations and its published policies.<sup>25</sup>

## D. DCF Policy Manual

In addition to its governing statutes and regulations, DCF posts its Policy Manual on its website to provide transparency about how the Department implements its governing statutes and regulations from a practical standpoint.<sup>26</sup> Included in the Policy Manual are policies detailing how the SCR screening process works; DCF’s relationship with law enforcement; and its historical willingness to assist families at the request of law enforcement (among other professionals),

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<sup>21</sup> DCF/Law Enforcement Model Coordinated Response Protocol, <https://www.nj.gov/oag/dcj/pdfs/dcf-law-enf-protocol.pdf> (last visited February 6, 2023).

<sup>22</sup> *Id.* at 1.

<sup>23</sup> *Id.* at 9, 10.

<sup>24</sup> *Ibid.*

<sup>25</sup> *See* N.J.A.C. 3A:10-3.1(c) (requiring child protective investigators to follow process set forth in the DCF/Law Enforcement Model Coordinated Response Protocol). *Cf.* N.J.A.C. 3A:10-5.1(a) (setting forth DCF’s “legal obligation” under N.J.S.A. 9:6-8.10 to refer to county prosecutors all reports received of suspected abuse or neglect “that involve suspected criminal activity on the part of the child’s parent, caregiver, or any other person”); N.J.A.C. 3A:10-5.1(b) (obligating child protective investigators “to immediately report to the prosecutor all cases involving suspected criminal conduct on the part of a parent, caregiver, or any other person.”).

<sup>26</sup> *See* [dcfpolicy.nj.gov](https://dcfpolicy.nj.gov) (DCF’s “Policy Manual Home”) (last visited February 6, 2023); *see also* N.J. Dep’t of Children & Families, Administrative Order 11 (effective March 18, 2019) (“Commitment to Accessible Policy. The Department of Children and Families (DCF) is committed to making its policies and operating procedures readily available and clear to clients, staff, and the general public.”).

even when caregiver abuse or neglect is not suspected or immediately apparent but the family needs services. These policies inform the public and various government entities and employees about how the agency will act in various situations. New Jersey courts have also looked to DCF's Policy Manual to understand and assess the actions of DCF employees.<sup>27</sup>

In accordance with DCF Administrative Order 11, which establishes "uniform Departmental procedures for the development, promulgation, and publication of policies and regulations," DCF's policies are updated periodically by its Office of Policy and Regulatory Development (OPRD). The OPRD sends bi-monthly staff emails to provide information on what is "New, Revised, Obsolete, and Emergent in Department Policy." Those updates are then included on the DCF Policy Manual website, which contains a disclaimer that "DCF Policy may be subject to change without notice in order to reflect the Department's current practices." In 2022, DCF released over a dozen policy updates, some of which address multiple policies. These updates include, but are not limited to, revision of existing forms, revision of existing policies, introduction of new policies, and information about regulations that have been readopted. The majority of these policy updates are specific to DCPD.

## E. State Central Registry Decision-Making

The DCF Policy Manual outlines the roles and responsibilities of various DCF employees, including SCR screeners. SCR screeners are responsible for answering hotline calls and determining which allegations and requests for assistance require in-person follow-up by a DCPD caseworker and which do not. The DCF Policy Manual guides SCR screeners through this decision-making process, setting forth the protocols screeners are required to follow when evaluating hotline calls.<sup>28</sup>

The SCR screener's decision is reflected in how the screener codes the call. For reports that a screener determines do not require in-person follow-up, the screener may code in such a way as to reflect the information is being noted for record-keeping purposes, but no further action is required. A report could also be coded to reflect that the screener has directed the caller to a non-DCPD community provider, including but not limited to CSOC, for needed social services.<sup>29</sup> This

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<sup>27</sup> N.J. Div. of Child Prot. & Permanency v. T.S., 463 N.J. Super. 142, 158 (App. Div. 2020) (analyzing "regulatory scheme" set forth by DCF Policy Manual); N.J. Div. of Child Prot. & Permanency v. V.H.-R., No. A-1218-18T1 (App. Div. July 6, 2019) (slip op. at 10) (considering whether caseworker complied with DCF Policy Manual and the ramifications of the lack of compliance).

<sup>28</sup> See, e.g., CPP-II-A-1-100 (SCR Generally) at p.7 (explaining "[t]he primary responsibility of an SCR Screener is to decide whether information presented by a reporter" meets the criteria for a report of child abuse or neglect (CAN), a referral for child welfare services (CWS), the provision of information and referral (I&R), or the provision of information only (IO)). See also CPP-II-C-2-200 ("When SCR determines that CP&P will conduct either a CPS investigation or a CWS assessment, the assigned Worker must respond in person, face to face.").

<sup>29</sup> Through CSOC, families that meet the relevant clinical criteria are given access to a number of available behavioral health services. For example, if a child is actively in crisis, CSOC can deploy a mobile response unit within an hour to help stabilize the situation. If a child is at risk of being removed from the home or

process is known as an “information and referral” or an “I&R.” Codes that require a DCPD caseworker response within a specified time frame include “CAN,” which indicates the report contains a child abuse or neglect concern under Title 9 that needs to be investigated, and “CWS,” which indicates a child welfare concern under Title 30 that does not appear to be due to abuse or neglect but still needs to be assessed. The Policy Manual describes “CWS” coding appropriate in situations in which a potential service need exists for a child or family, but there is insufficient risk to justify a child abuse or neglect investigation.<sup>30</sup>

The Policy Manual includes guidance for screeners of “what not to do” when screening a hotline call. For example, the manual directs screeners to avoid “dwell[ing] on the credibility of the reporter.” This is because “[t]he assigned Child Protective Investigator will determine the credibility of the report upon investigation.” Screeners should also avoid focusing on whether a parent intended harm, because that “is not relevant to determining whether to accept a report of child abuse or neglect.” The screener should “not dwell on the ‘attitude’ of the reporter, [their] personal reaction to the reporter, or the possible motivation of the reporter for calling SCR.” And they should not “downgrade a report of child abuse/neglect because the presenting problem appears to be a ‘one-time incident,’” or make a decision whether or not to accept a new report simply because a family may have failed to accept services in the past.<sup>31</sup>

Also, the Policy Manual instructs that “SCR Screeners and Supervisors do not make collateral calls to verify information provided by reporters.”<sup>32</sup> Instead, “[c]ontacting collateral sources of information” such as “local law enforcement, a child’s school or child care center, a doctor or other health care provider, a counselor, therapist, etc.,” is reserved for the field officer assigned through the local office to conduct the child protective services investigation or child welfare service assessment.<sup>33</sup>

## F. DCF Policies Regarding Law Enforcement Requests

Several policies in the Policy Manual address how SCR screeners should evaluate hotline calls from law enforcement. For example, CPP-II-C-4-100 “establishes policies and procedures for DCF

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admitted to a psychiatric hospital due to significant emotional or behavioral concerns, higher level behavioral services may be available through a Care Management Organization in an effort to allow them to remain safely in the home and community. CSOC may also offer a one-time, in-home biopsychosocial assessment for a child who has moderate to severe emotional or behavioral health concerns but does not have a current treatment provider. The assessment results would then be reviewed by the contracted systems administrator to determine what services are appropriate based on medical necessity criteria and referrals made accordingly. Notably, the CSOC array of services does not cover lower-intensity treatment services such as out-patient therapy.

<sup>30</sup> CPP-II-A-1-100 at 4.

<sup>31</sup> *Id.* at 8-9.

<sup>32</sup> *Id.* at 25.

<sup>33</sup> *Ibid.*; see also CPP-II-C-2-200. Cf. N.J.A.C. 3A:10-2.1(a) (requiring SCR representative to “deem a call to be a report if he or she determines that a call contains at least one allegation which, if true, would constitute a child being an abused or neglected child, as defined in N.J.A.C. 3A:10-1.3. The child protective investigator shall investigate each new report, regardless of whether the alleged child victim and his or her family is known or not known to the Department.”).

seeking assistance from, or providing assistance to, law enforcement authorities, including local and State police and the County Prosecutor's Office." That policy incorporates by reference the DCF/Law Enforcement Model Coordinated Response Protocol discussed above. It also highlights instances when law enforcement will seek DCF's assistance with services in emergency situations, and DCPD staff may provide those services as necessary and appropriate.

Another policy that addresses the relationship between DCF and law enforcement is CPP-II-A-3-300. This policy discusses child welfare services or "CWS" referrals broadly, setting forth the conditions under which SCR Screeners will accept a CWS referral. As noted above, a case coded as CWS indicates that there is a child welfare concern under Title 30 and an assessment should take place, but the case does not appear to involve abuse or neglect. The policy explains that, "[b]ased on the voluntary nature of CWS" (with the exception of court-ordered services), DCPD only accepts referrals when there is a specific legislative carve-out requiring it, or the referral comes from a limited pool of credible sources. Included in this limited pool of credible sources are "helping professionals," which includes law enforcement, who have concerns about a child.<sup>34</sup>

According to the policy, SCR will accept cases for a DCPD response when law enforcement specifically requests DCPD's assistance assessing a family's ability to meet a child's basic needs, and when immediate assistance is needed to address a family conflict, among other situations.<sup>35</sup> SCR will also accept cases for a CWS assessment when there is an allegation of non-caregiver sexual abuse and the following conditions are met: the police have been notified of the incident; child welfare or other support services are needed that DCPD can provide or effectively coordinate in the community; and/or there is a need for DCPD to assess the child's or family's service needs.<sup>36</sup>

## G. DCF Policies on Child-on-Child Sexual Abuse & Child-on-Child Sexual Activity

DCF's policies on child-on-child sexual abuse and child-on-child sexual activity were first adopted in August 2011 following release of the New Jersey Task Force on Child Abuse and Neglect's First Annual Report.<sup>37</sup> In that report, the Task Force noted that authorities had seen a rise in the number of child-on-child sexual abuse cases and were concerned with inconsistencies in the way child-on-child sexual abuse cases were being managed.

DCPD's posted policies state that, in addition to accepting non-caregiver child sexual abuse referrals as noted above, DCPD will accept matters involving allegations of child-on-child sexual abuse and activity. CPP-II-A-3-300, which broadly covers "CWS referrals," states that DCPD will

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<sup>34</sup> See CPP-II-A-3-300.

<sup>35</sup> *Id.* at 5.

<sup>36</sup> *Id.* at 6.

<sup>37</sup> State of N.J. Dep't Of Children & Families, New Jersey Task Force on Child Abuse and Neglect, First Annual Report, 14 (2011), <https://www.nj.gov/dcf/documents/about/commissions/njtfcan/NJTFCANreportJul-Jun11.pdf> (last visited February 6, 2023).

accept reports of child-on-child sexual activity and provide a DCPD response in those cases in accordance with DCPD's more specific policies on Child on Child Sexual Abuse and Child on Child Sexual Activity.<sup>38</sup> This CWS policy has been in effect since August 29, 2011, and was most recently updated April 3, 2018.

DCPD's Child on Child Sexual Abuse Policy (CPP-II-B-1-550), also effective since August 29, 2011, "establish[ed] the procedures for screening, investigating, and thoroughly assessing incidents of child-on-child sexual abuse and child-on-child sexual activity." The policy states that SCR will "accept[] all reports and referrals of child-on-child sexual abuse and child-on-child sexual activity."<sup>39</sup>

The Child on Child Sexual Abuse Policy defines child-on-child sexual abuse as an occurrence of an act of sexual abuse between children that implies there is an existence of power differential and that one child is in a caregiver role. When a child-on-child sexual abuse allegation is reported, it is coded in such a way that requires a child protective services response. The assigned caseworker must establish contact with all children involved — the alleged child offender(s) and child victim(s) — and secure each child's immediate care, supervision, and safety. The caseworker must also determine whether any of the children were prior victims of sexual abuse or assault, and assess their caregivers' knowledge or involvement in the incident, and their ability to protect the children from further harm. The policy provides for the caseworker to take actions as necessary to assess the situation and keep the children safe, including through mandatory referrals to the RDTC for all children involved in the allegation.

The Child on Child Sexual Activity Policy (CPP-II-B-1-600),<sup>40</sup> effective the same date, further outlines how SCR Screeners and assigned workers should respond when there is an incident of child-on-child sexual activity, but abuse is not alleged. The child-on-child sexual activity policy makes clear that, in accordance with Title 9 and Title 30, DCPD "shall, upon receipt of such report, take action to assure the safety of the child." When the SCR screener receives the report, they assess the appropriateness of the caregiver's reaction to these activities. The screener then decides whether a CWS assessment, or a child protective services investigation is needed to protect the child, to further assess risk, or to provide services to the parents. In either case, the assigned worker still establishes contact with the child or children they are assigned, and takes action to determine whether the children were prior victims of sexual abuse or previously involved in sexual activity. The caseworker also assesses the caregiver to determine their role in or knowledge of the child-on-child sexual activity.

As explained by these policies, an evaluation of a caregiver's response to allegations of child-on-child sexual activity is critical. Even when a parent or caregiver bears no responsibility for the initial sexual interaction "between siblings or unrelated children, young children or adolescents,

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<sup>38</sup> CPP-II-A-3-300 (CWS policy citing CPP-II-B-1-550, Child on Child Sexual Abuse, and CPP-II-B-1-600, Child on Child Sexual Activity).

<sup>39</sup> CPP-II-B-1-550 at 1.

<sup>40</sup> CPP-II-B-1-600.

the parents/caregivers have the responsibility to see that these activities stop and that non-sexual behavior is maintained or resumed.”<sup>41</sup>

Together, these policies are intended to protect both the alleged child-victim and alleged child-offender. They provide for evaluations and treatment by specially trained pediatricians and mental health professionals at the RDTCs, who are child abuse experts. They emphasize that caseworkers, along with these highly specialized experts, are able to evaluate whether the underlying reason the child-offender acted out sexually is because they are themselves victims of abuse. The policies also ensure that both children receive appropriate follow-up care and treatment, and they assist DCPD in developing a plan to ensure the child victim is protected and that no further maltreatment takes place. They also provide for reporting to law enforcement when appropriate, and provide the courts with expert guidance for decision-making when necessary.

### III. Methodology

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OSC’s investigation was initiated upon receipt of a complaint from representatives of law enforcement about children not receiving necessary services and interventions due to recent policy or practice changes at DCF. To conduct its investigation, OSC reviewed DCF’s governing statutes, regulations, and agency policies, along with the case law interpreting them. OSC obtained and examined numerous documents, including internal and external correspondence from DCF, training materials, and SCR data. OSC also conducted interviews with senior DCF representatives, police and prosecutors, various members of county-based MDTs, and service providers who specialize in child abuse. OSC also took sworn testimony.

DCF was provided with a confidential draft copy of this report to provide it with an opportunity to respond. In preparing this report, OSC considered DCF’s responses and incorporated them as appropriate.

### IV. Findings

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#### A. In early 2020, DCF changed its practices for handling reports of child-on-child sexual activity and child sexual abuse by non-caregivers.

As addressed above, under DCF policies adopted in 2011 that remain in effect today, DCPD is required to accept and investigate all reports and referrals of child-on-child sexual abuse and child-on-child sexual activity and take any necessary action.<sup>42</sup> Current DCPD policy also states it

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<sup>41</sup> CPP-II-B-1-550; see also N.J.A.C. 3A:10-2.3 (child abuse or neglect may be sustained where a parent or guardian was not the perpetrator, but was nonetheless culpable for failing to stop the harmful actions of another person or recklessly disregarded a harmful situation).

<sup>42</sup> CPP-II-B-1-550 at 1, 4; see also CPP-II-B-1-600 at 1-2.



will accept non-caregiver child sexual abuse cases for a DCPD response when law enforcement requests assistance. OSC's investigation revealed that DCF is not complying with these written policies and has directed employees to follow an unwritten policy that largely restricts SCR staff from accepting these categories of cases for a DCPD caseworker response.

Through a review of documents provided to OSC by DCF, OSC found that in 2019, an internal DCF working group began reviewing the child welfare services that DCPD provided to children and families. One of the purposes of the review was to see which other DCF division or community agency would be the most appropriate to provide supportive services to the family in those cases that did not appear to involve abuse and neglect by a caregiver. One of the stated reasons behind this shift was, in part, to avoid having families "enter the system" and have the stigma of an open child protection case administered by DCPD when the family could instead receive needed services without the involvement of DCPD. Included in the types of cases that DCF identified as appropriate to divert away from DCPD were child-on-child sexual activity (including child-on-child sexual assault and other inappropriate sexual activity, as well as reported "normal age-appropriate sexual behavior") and non-caregiver sexual abuse cases, even if the perpetrator was a family member or lived in the same home.<sup>43</sup>

Although DCF appears to have made the decision to divert these cases away from DCPD in 2019, internal DCF documents reveal it was not until the beginning of the COVID-19 pandemic, in 2020, when SCR screeners first began declining to accept some referrals to DCPD from police and prosecutors when there was not a clear allegation of child abuse by a caregiver. Because the timing of the change coincided with the COVID-19 pandemic, some members of law enforcement reported that they initially attributed the changes in DCPD response to pandemic-related staffing shortages rather than a permanent policy change. But as time went on, those same individuals realized that DCPD had changed its approach to these cases without providing any notice.

DCF eventually provided training to SCR staff about how to implement the new unwritten policy. In late August and early September 2021, SCR screening staff received training with the goal of "[e]ducating supervisors on CWS policy and giving permission not to get involved in every case/ provide alternate intervention." Mini-group meetings were planned to review "CWS vs I&R protocols," or in other words, when to code a case as a child welfare case that would require a DCPD case to be opened and a caseworker assigned or when to refer the caller elsewhere for services. During the trainings, DCF provided examples of scenarios in which CWS cases should not be opened.

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<sup>43</sup> Relatedly, through the same working group, DCF also sought to identify other categories of cases that would not require a caseworker response from DCPD. The working group was instructed to identify call types they could exclude from CWS assessments and provided the following as an example: "CWS policy is that if police ask for help, we assign someone to go out with them." DCF never communicated to law enforcement that, going forward and counter to what is written in the CWS policy (CPP-II-A-300), it would no longer be willing to assign a DCPD caseworker to assist when an officer calls and requests immediate assistance with a child or family unless it was immediately apparent that there were concerns for abuse or neglect.

SCR staff was provided with a tip sheet as part of the trainings. The tip sheet emphasized that policies DCPD has determined to be “outdated or no longer relevant to SCREENING are NOT included in these guidelines.” Included in the tip sheet was a directive for screeners not to accept as CWS cases referred by police “unless the family already meets the criteria for DCPD intervention.” And it included a directive about when to accept cases involving child-on-child sexual activity for a DCPD response – when the act or incident is far beyond what is reasonable for a child of that age and the concern is that it may have been learned via sexual abuse.

Put differently, the tip sheet directs that, contrary to DCF’s published policies, unless it was clear from the referral itself that a caregiver was abusing or neglecting the child or children who were the subject of the referral, SCR screeners should no longer code cases in a way that would result in DCPD caseworker follow-up. Even when a law enforcement officer is the one requesting assistance with the child or family, that alone does not change the analysis and necessitate a caseworker response. Likewise, as long as it does not appear from the information contained in the referral that the child-on-child sexual activity was a result of prior sexual abuse (even if it was otherwise inappropriate or amounted to an assault), then a response from a DCPD caseworker is also no longer required. According to the tip sheet, SCR screeners should disregard policies stating otherwise.

## **B. DCF did not consult with or notify law enforcement or other MDT members about its new practice with respect to reports of child-on-child sexually inappropriate activity and child sexual abuse by non-caregivers.**

OSC’s investigation revealed that DCF decided to change its handling of child-on-child sexually inappropriate activity (particularly child-on-child sexual assault) and child sexual abuse by non-caregivers without engaging with law enforcement, or any other MDT members prior to making the decision. DCF also implemented the change without notifying law enforcement or the other MDT members.

DCF’s decision not to engage with or notify its MDT partners is inconsistent with state policy established through legislation requiring a coordinated response to the investigation, treatment, prosecution, and prevention of child abuse and neglect. The State’s overarching policy involving the protection of children recognizes that no one agency is best positioned to tackle these difficult and complex issues alone and that coordination is needed.

DCF’s failure to notify its partners and the public about this change is also inconsistent with its administrative directives. DCF issued Administrative Order 11, in March 2019, which states that “[w]hen a policy, procedure, or form is amended, updated, becomes obsolete, or is changed in any manner, the Director of Policy and Regulatory Development shall issue a Department wide update to inform staff of these changes. The changes shall also be placed with current policy on the Department’s internet page.”<sup>44</sup> Documentation and data show that DCF made a choice to deviate

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<sup>44</sup> [https://dcfpolicy.nj.gov/AO-I-A-1-011\\_issuance.shtml](https://dcfpolicy.nj.gov/AO-I-A-1-011_issuance.shtml) (last visited February 6, 2023).



from or disregard its published policies on how to handle these types of cases, yet DCF did not make a corresponding update to its published policies to reflect these changes. DCF did not issue a Department-wide update and did not publish a new policy on its website. Neither DCF nor DCPD formally updated any written policies or procedures setting forth this changed approach. The longstanding policies remain on DCF's website, even though DCF no longer complies with those policies with regard to cases of non-caregiver child sexual abuse or child-on-child inappropriate sexual activity.

When asked why DCF did not notify partners and the public regarding these changes, senior DCF officials repeatedly claimed that DCF had not changed its policy. Despite evidence to the contrary, DCF and DCPD representatives denied that any policies or practices had changed recently, or that any policies or practices had changed for many years. DCF and DCPD representatives told OSC that the last update to any related policies was in 2018, and since then they have considered some small changes but nothing has been implemented.

DCF maintained this position even after being repeatedly contacted by its partners about the effects of the change. A review of internal correspondence reveals that, by mid-December 2021, DCF and DCPD were aware that "various partners" such as prosecutors, police, and other MDT members were inquiring about perceived changes to DCPD policies and DCPD's lack of involvement in cases in which it had always been previously involved. Even knowing that, DCF chose to "hold[] off having any communication with staff or the Prosecutor's office," "anticipat[ing] that those larger scale conversations will be initiated next year." The stated reason for delaying communication was the desire to be "strategic regarding the messaging and dissemination of information" about DCF's decision to "narrow the door" to "CWS Assessment cases" so it could instead focus on "protection cases."<sup>45</sup>

### **C. DCF's changed practices undermined the State's response to child-on-child inappropriate sexual activity and child sexual abuse by non-caregivers in a significant number of cases.**

In February 2022, partially in response to concerns raised in a task force meeting (that included members of DCF executive staff, the RDTs, and child advocacy centers) about children not

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<sup>45</sup> In DCF's response to OSC's draft report, DCF asserted that OSC mischaracterized SCR's approach to coding cases that involve child-on-child sexual activity and child-on-child sexual assault. In support of its claim that its policy with regard to these cases has not changed, DCF noted that from March 2021 to March 2022, 28 percent of those cases not coded for CPS investigation were opened as CWS cases. However, it is unclear when those cases were opened and whether they fell within the five-month timeframe that would most clearly reflect the impact of the changed practices – from September 2021, when SCR staff was fully trained with the new approach, to early February 2022, when SCR decided to "slow down" in response to concerns raised by a task force. DCF did not identify whether these cases fell within or outside of that 5-month period. Either way, this indicates that the majority (72 percent) of the reported cases involving child-on-child sexual activity and child-on-child sexual assault were not investigated by DCPD to determine whether any of those children or families needed and/or received services. This is a stark departure from DCPD's current published policies, which indicate that all such cases should receive a DCPD caseworker response.

receiving appropriate services and support due to DCPD's non-involvement in cases involving child-on-child sexual activity, DCF conducted an internal analysis of data it had previously collected to assess whether the concerns had merit. DCF analyzed 5 months of manually collected SCR hotline data that covered the period of September 2021 through January 2022. As part of its analysis, DCF looked at reports of child-on-child sexual activity that were coded as Information & Referral or "I&R," and thus would not have had follow-up by a DCPD caseworker.

The data showed that a subset of the reports received involved children engaging in "normal age-appropriate sexual behavior." But the data also reflected that there were 123 reports coded as I&R that involved child-on-child inappropriate sexual activity and child-on-child sexual assaults (calls regarding both victims and aggressors). Because they were coded as I&R, those 123 reported cases were not assigned a DCPD caseworker to follow-up to ensure those children connected with appropriate services.

As a result of this analysis and the concerns expressed by the task force, DCF immediately decided to "slow down," and add certain safeguards to the SCR referral process. Going forward, SCR would ask more probing questions to better assess the need to generate CWS referrals (ensuring caseworker involvement) rather than I&R referrals in the following scenarios: when a family and a referent is seeking specialized services on behalf of the child/family and the family does not have the means to access services on their own; the family needs assistance with linkage to services; or a referral is needed from DCPD to access services.

DCF, however, did not take any steps to look back to ensure that every child contained in those 123 reports had connected with appropriate services. Nor did it make sure that analysis was exhaustive for that five-month period, acknowledging that it was based on manually pulled data that was identified as possibly being incomplete.

Through this investigation, OSC also became aware of a separate, de-identified list of over 30 cases that reflected examples of cases that DCPD had previously accepted, but had declined in recent months. This list had been compiled by representatives of the law enforcement community. Some of the case descriptions included instances in which a family or child was unable to secure necessary services because DCPD refused to open a case. This information was shared with DCF in April 2022.

One of these cases highlights the impact of DCF's changed practices. In that case, a child was a victim of ongoing sexual abuse by an 11 year-old sibling in the home. The parent called the SCR hotline to report the abuse and seek help, but DCPD declined to open a case and assign a caseworker. Instead, the parent, who lacked the resources to effectively separate the children, was referred to the contracted systems administrator for CSOC. CSOC, however, was unable to provide the necessary treatment for the older child. The abuse continued until the younger child reported the abuse at school, and the school alerted law enforcement.

When contacted by law enforcement, DCPD reportedly refused the prosecutor's request to get involved and open a case, to put a safety protection plan in place, or to provide other necessary services. DCPD's position appears to be that because the parent was trying to get help and was

behaving appropriately, there was technically no abuse or neglect that required DCPD's involvement with the family.

DCPD's refusal to get involved in the case led the prosecutor to criminally charge the older child, enabling the court to intervene and protect the younger child by putting a safety protection plan in place. The plan removed the older child from the home and temporarily placed the child with another family member, ensuring that both children were able to obtain necessary services. In the process, it was discovered that the 11-year old aggressor was also a victim of abuse by an adult family member. Only upon learning this additional information did DCPD agree to get involved with the older child and coordinate appropriate services.

Four months later, when OSC questioned DCF about its handling of that case and the handling of the other cases identified by members of the law enforcement community in April 2022, OSC again found there was a lack of communication or follow-up.

## **D. Law enforcement does not have the same authority or resources as DCPD to intervene and assist families.**

OSC's investigation also revealed a disconnect between DCF and law enforcement regarding whether law enforcement is capable of effectively responding to allegations of inappropriate child-on-child sexual activity and child sexual abuse by non-caregivers if DCPD is no longer involved. DCF told OSC that if it provides additional funding to law enforcement for this purpose, law enforcement will be able to provide any necessary supports and services for children and families.

But as the example above shows, money alone will not address all of the issues created by these changes. A "law enforcement only" response is not always in the best interests of children. Among other things, law enforcement does not have the ability to put in place a safety protection plan, or to investigate whether that plan is complied with to ensure the well-being of the children in the home, or to temporarily remove a child from the home for safety concerns without judicial involvement.

In other words, law enforcement lacks the robust legal authority to intervene in the same way DCPD can to ensure a child's health or safety when a parent is unwilling or unable to ensure the child's well-being. And DCF has not adequately addressed how law enforcement will be able to fill these gaps if DCPD will no longer be involved. DCF also has not provided a good reason why a "law enforcement only" response to child-on-child sexual assault cases, ensuring the involved children will have significant contact with the criminal justice system, is preferable to a joint response with the agency charged with protecting children and families. DCF's current position on this seems to conflict with the Legislature's intent when it determined that a multidisciplinary approach, involving coordination between child protective services, prosecutors, mental health and medical professionals, and victim witness and family advocates best serves the needs of these vulnerable children.

## E. DCF has authority under Title 30 to be involved in child-on-child sexually inappropriate activity and child sexual abuse by non-caregivers.

In response to OSC's investigation, senior DCF officials asserted that many of the cases that OSC inquired about, which are similar to cases DCF previously handled through DCP, were not within DCF's statutory authority to address. Their position was that full implementation of their published policies may be inconsistent with the law.

But the full scope of DCF's broad statutory authority is not an open question. The New Jersey Supreme Court has found, as a matter of law, that the plain language and statutory scheme of Title 9 and Title 30 provide DCF with broad authority to protect children and assist families, even when no abuse or neglect is alleged. In fact, the policies DCF enacted in 2011 to address child-on-child sexual abuse and child-on-child sexual activity reflect DCF's historical reliance on that same broad authority to assist children and families outside the abuse and neglect context. Those policies cite as their underlying "authority" two statutes, N.J.S.A. 9:6-8.18 and N.J.S.A. 30:4C-11. There is no reason to conclude that these policies – which by their plain language apply to situations that may not stem from caregiver abuse and neglect – have been rendered unsupported or unlawful. Since their first issuance, neither the Legislature nor the courts have taken any action that would suggest it would be unlawful for DCP to continue its prior practice of having caseworkers working cooperatively with law enforcement on cases involving child-on-child sexual assault or other inappropriate sexual activity between children, and providing children with necessary services.

Likewise, the CWS policy that contemplates accepting cases involving non-caregiver sexual abuse has also been in effect since August 2011. And since then, neither the Legislature nor the courts have taken any action that would suggest it would be unlawful for DCP to assist families and the child victim when a child has been a victim of non-caregiver sexual abuse and to assist law enforcement in providing or coordinating necessary services, particularly where a family is seeking them out.

However, OSC's investigation revealed that DCF's current position is that DCP "lacks the statutory authority to investigate" or otherwise get involved in cases that involve child sexual abuse by non-caregivers and child-on-child sexual assault cases for which no caregiver is alleged to be involved. In support of this position, DCF asserts that those cases are "criminal in nature," and so law enforcement alone should be investigating and partnering with their victim advocacy office to obtain any needed referrals or services. DCF emphasizes that DCP's authority under Title 9 is limited to those instances when the allegation of child abuse or neglect implicates a caregiver.

OSC inquired with DCF about the impact of Title 30, in which the Legislature explicitly granted DCP the authority to get involved in cases outside the abuse and neglect context when a child needs services and their caregiver cannot provide that help for no fault-based reason. In response, DCF leadership made clear that DCF elected to reduce its role and not exercise its full powers.

## F. DCF's change in approach is causing confusion and lack of coordination among partners.

DCF's decision not to involve DCPD from the outset to provide services for children and families involved in child-on-child inappropriate sexual activity and non-caregiver sexual abuse has upended the system previously in place to meet this need and caused significant uncertainty about how to handle these cases.

Interviews and documentary evidence show widespread confusion among the RDTCs and other providers, about who, outside of DCPD, are permitted to refer children for services. Historically, all referrals for medical and psychological evaluations by the RDTCs or by other service providers were provided by DCPD caseworkers. When DCF and DCPD changed their practices about which cases they would accept for a caseworker response, the need for services for both child victims and child aggressors remained.

Some members of law enforcement indicated there is uncertainty and concern among county prosecutors about whether they possess the authority or contractual relationships with medical and psychological providers who can provide appropriate care and treatment to families. Some non-RDTC mental health service providers were unclear whether they were permitted to accept referrals from an agency other than DCF. While prosecutors undoubtedly have the statutory authority to refer to RDTCs, historically DCPD would provide these referrals at the request of law enforcement and a mechanism was in place for the RDTCs to be reimbursed. The lack of notice of DCPD's changed practice caused significant confusion as a result and uncertainty about how the RDTCs could be reimbursed if the referral came directly from a prosecutor. During this timeframe, at least one RDTC accepted some cases on a pro bono basis at the request of law enforcement when DCPD declined to provide referrals, but the RDTC indicated that this practice would not be sustainable.

Because DCPD did not give notice that it would no longer accept law enforcement referrals for the majority of child-on-child inappropriate sexual activity and non-caregiver sexual abuse cases – and in turn would not be providing referrals for services as it had historically done – certain non-RDTC service providers also did not know if they were permitted to accept cases for a fee that were not referred through DCPD, or if their contracts needed to be adjusted to allow for that change.

Additionally, it appears that prior to changing its practices, DCF did not take into account the lack of expertise of police and prosecutors in identifying appropriate services for the specific cases, especially when compared to trained DCPD caseworkers. It also appears there was not a plan in place to address how to fund RDTC evaluations and other services for these children if DCPD would no longer make referrals for these services. In the past, DCPD had covered these costs, even when it was no longer involved with the case. It seems many of those issues are now being addressed, after-the-fact, in a working group.

Finally, in changing its practices, it appears DCF did not account for the conflict of interest that exists when law enforcement is primarily or solely responsible for identifying, obtaining, and managing appropriate medical and mental health treatment for both a child-victim and a child aggressor. The child aggressor's needs are different than the child victim's, and a child aggressor may ultimately be criminally charged depending on the circumstances. These conflicts cannot be resolved solely by providing additional funding to law enforcement and child advocacy centers--which are largely housed in prosecutor's offices and child-victim focused.

In its response to a confidential draft of OSC's report, DCF leadership has reported that further discussions with various representatives of the law enforcement community have resulted in an approach that DCF believes will resolve their concerns. OSC has not evaluated whether those changes address the concerns raised in this report.

## V. Recommendations

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In view of the above findings, OSC recommends that DCF:

1. Comply with the written policies that address child-on-child inappropriate sexual activity and non-caregiver sexual abuse that are currently in effect. If DCF elects to make changes to those policies, those changes should only be implemented after adequate notice to all stakeholders and time to prepare for such changes.
2. Continue to engage cooperatively with law enforcement and other members of the MDTs regarding the appropriateness of changes in policy and practices and the capability of law enforcement to engage in areas in which DCPD previously engaged. Make adjustments to current DCF practices as necessary to ensure children do not have a heightened risk of criminal justice involvement due to DCF's changed approach to cases involving child-on-child inappropriate sexual activity and non-caregiver sexual abuse.
3. Be transparent with law enforcement, other members of the MDTs, and the public about the decision to limit the number of CWS assessments performed by DCPD caseworkers in cases that involve child-on-child inappropriate sexual activity and non-caregiver sexual abuse in contravention of current published policy.
4. Comply with the administrative directive requiring the issuance of Department-wide updates informing staff of changes and placing updated policies on the Department's webpage.
5. Ensure the 123 children identified as having been the subject of reports of child-on-child inappropriate sexual activity were connected with services and that the services were appropriate to meet the needs of the children. Ensure that any children that were the subject of reports in February 2022, before the additional "safeguards" were added, were connected with services and that those services were appropriate to meet the needs of those children. OSC also recommends that DCF, DCPD, and the appropriate members of

the law enforcement community, work together to identify the children and families described in the de-identified case list to ensure they were all able to obtain needed services and supports.

6. Provide transparency, going forward, about changes to policies and practices that will have a direct impact on members of the MDTs and the public. This can be accomplished by giving stakeholders notice of any changes before they happen to allow them to troubleshoot and address possible pitfalls that may result in unintended consequences. DCF should also strongly consider seeking legal guidance from the Division of Law before making changes it believes may be required by statute or case law.