



JON S. CORZINE
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
PO Box 085
TRENTON, NJ 08625-0085
TELEPHONE: (609) 984-6500

STUART RABNER
Attorney General

GREGORY A. PAW
Director

TO: ALL COUNTY PROSECUTORS

FROM: AAG Jessica S. Oppenheim, Chief 
Prosecutors Supervision and Coordination Bureau

DATE: February 8, 2007

SUBJECT: DCF/Law Enforcement Model Coordinated Response Protocol

The attached DCF/Law Enforcement Model Coordinated Response Protocol is being forwarded to you for your use and dissemination to all law enforcement agencies in your jurisdiction. This Protocol is to guide law enforcement and the new Department of Children and Families (DCF) personnel in working together to handle child abuse matters. DCF is disseminating this Protocol to their staff statewide. Thank you for your assistance.

JSO:jk
Attachment
c w/Attachment:

Attorney General Stuart Rabner
First Assistant Attorney General Anne Milgram
Gregory A. Paw, Director
AAG Gladys Rodriguez, Deputy Director
AAG Boris Moczula, Deputy Director
Chief State Investigator Paul Morris
Insurance Fraud Prosecutor Greta Gooden Brown
Colonel Rick Fuentes, Superintendent, NJSP
Chief, Robert Melson, Police Services, DCJ



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DCF/LAW ENFORCEMENT MODEL **COORDINATED RESPONSE PROTOCOL**

The responsibility to investigate allegations of child physical and sexual abuse falls to both DYFS¹ and law enforcement. Each, however, has an overarching goal which, while interconnected, may be competing. The primary goal for DYFS staff is safeguarding of the child and ultimate reunification of the family, whenever possible. The primary interest of law enforcement is the identification of and prosecution for criminal acts of culpable individuals.

In order to effectively address the needs of children while effectuating these goals, the purpose of this protocol is to ensure a cooperative, coordinated joint investigation of child sexual abuse and/or child physical abuse/neglect allegations. Once a report of child sexual abuse and/or physical abuse or neglect has been made, it is the goal of both the Division of Youth and Family Services ("DYFS") and law enforcement to promote the best interests of the child by ensuring the safety of the child or children involved in the report and to conduct the investigation in an expeditious manner. With these goals in mind, in cases involving possible criminal charges, both DYFS and law enforcement will coordinate their response to the extent possible in order to make sure that the child or children who are the subject of the report are protected from any further possible abuse. In addition, a primary objective of this protocol is to reduce the number of interviews to which the child or children will be subjected. In all matters governed by this Protocol, the safety of the child is paramount.

Section I **Referral Procedure**

All cases of suspected child abuse or neglect will be reported to the State Central Registry (SCR) Child Abuse Hotline at 1-877-NJABUSE.

Reports received by Law Enforcement: Upon receipt of a report of child sexual abuse/child physical abuse/neglect received from a source other

¹ For the purpose of this Protocol, references to DYFS will include the Institutional Abuse Investigations Unit and the Conflict Unit in the Office of the Public Defender which investigates allegations against DYFS employees and in DYFS facilities.

than DYFS, the local law enforcement agency will immediately notify the SCR Child Abuse Hotline at 1-877 NJ ABUSE (1-877-652-2873).² Child abuse shall include any physical or sexual offenses against a minor (under the age of 18) when the alleged perpetrator is a parent/guardian or an individual who has a legal duty to care for the child or has assumed responsibility for care of the child.

Upon first hearing of an report, the County Prosecutor's Office at their discretion and in situations where a timely DYFS response is indicated, may also contact the local DYFS office to advise them of the incident in advance of the assignment from SCR, so that the local DYFS office can begin to plan their response.

Reports received by the Child Abuse Hotline: Upon receipt of a report of child sexual abuse/child physical abuse/neglect where the incident meets the criteria for investigation by DYFS, the DYFS Hotline will notify the local DYFS office responsible for conducting the investigation.³

Upon receipt of the report of any of the following allegations pursuant to N.J.A.C. 10:129-3.1(b):

- 1) Death of a child;
- 2) The subjecting or exposing of a child to unusual or inappropriate sexual activity;
- 3) Any type of injury or condition resulting in hospitalization or emergency room treatment;
- 4) Any type of injury or condition that requires significant medical attention (for example, treatment for broken bone at physician's office);
- 5) Repeated instances of physical violence committed against a child, or substantially depriving a child of necessary care over a period of time; or
- 6) Abandonment of a child,

² If the complaint is received from any school pursuant to N.J.S.A. 18A:36-25 and the school confirms that they have contacted the Hotline, no separate call to the Hotline needs to be made by law enforcement.

³ All Title 9 complaints are referred to the County Prosecutor's Office by the Court. (9:6-8.25a). In addition, DYFS must refer all substantiated cases to the local law enforcement authority (for jurisdictions that do not have a local police department, DYFS notifies the State Police). (9:6-8.10a (e)).

the local DYFS office will **immediately** contact the appropriate unit of the County Prosecutor's Office. When a report of child sexual abuse/child physical abuse/neglect is received after hours or during a weekend or holiday, the SCR Hotline will contact the assigned DYFS Special Response Unit (SPRU) worker. The SPRU worker will contact the on-call Prosecutor's Investigator.

DYFS may in its discretion contact the County Prosecutor's Office upon receipt of other allegations in addition to those described in N.J.A.C. 10:129-3.1(b).

Section II
Initial Investigative Procedure
a. Reporting Procedure

Under current DYFS policy, there are specified, required response times for investigating reports of child sexual abuse and/or physical abuse/neglect depending on the allegations.

When DYFS makes a referral to the County Prosecutor's Office, in addition to providing the information regarding the referral, DYFS will advise the County Prosecutor's Office of their required response time and the name of the worker assigned to investigate the allegation. In addition, DYFS will fax the Screening Summary, DCF Form 1-1 to the appropriate unit within the County Prosecutor's Office. In cases where notification has been made by DYFS to the local police agency, this information will also be provided to the County Prosecutor's Office within the time frame. It will be the responsibility of the County Prosecutor's Office to coordinate the investigation with the local police agency.

Within thirty (30) minutes of receiving this information, the supervising detective of the appropriate unit of the County Prosecutor's Office will review all available information so that DYFS can appropriately respond within the designated time frame. In cases where the County Prosecutor's Office has deferred such investigations to the local police agency, the supervising detective will confer with the local police agency. After reviewing all available information, conferring with an

assistant prosecutor and, if applicable, conferring with the local police, the supervising detective will make a determination regarding whether law enforcement will be involved in the investigation (including which law enforcement agency will be assigned), and notify the supervisor of the appropriate unit at DYFS of the decision.

If law enforcement receives the referral after hours or during a weekend or holiday, the on-call detective from the County Prosecutor's Office will contact the on-call supervising detective and make the determination outlined above and notify the SPRU worker as to the involvement of a county or local law enforcement agency. If contact information for the SPRU worker is not available, this information will be called into SCR which will notify the SPRU worker in that jurisdiction.

In cases where law enforcement is making the report of sexual abuse/physical abuse/neglect to DYFS, law enforcement will indicate in the report whether the County Prosecutor's Office has been notified. Law enforcement will also fax any incident report to DYFS Local Office. If the County Prosecutor's Office has not been notified, the DYFS LO will notify the County Prosecutor's Office as previously outlined. If the County Prosecutor's Office has been notified, law enforcement will indicate in the report who at the County Prosecutor's Office was notified and that individual's contact information. Once the local DYFS office is notified of the report, the local DYFS office will contact the person notified at the County Prosecutor's Office to determine law enforcement's response. If the County Prosecutor's Office is making the report, the County Prosecutor's Office will indicate the law enforcement response at the time of the report. If law enforcement is going to respond, the name of the detective/police officer assigned to the case and their contact information will be provided in the report. DYFS initial response time frames will be followed even when law enforcement is the source of the report to DYFS.

b. First Response Team for Joint Investigation

Once it has been determined that both law enforcement and DYFS will be responding, the assigned detective/police officer and DYFS investigator should immediately confer, either in person, by telephone or via the Internet and determine how to proceed. At this initial conference, decisions should be made regarding the order of interviews, when and where the interviews will take place and who will transport the child and/or other witnesses. In cases in which both DYFS and law enforcement will be investigating, if DYFS needs to respond in

accordance with its policy before law enforcement in order to protect the safety of the child, unless otherwise agreed, the DYFS investigator will gather the basic information required by its policy. DYFS will not conduct a forensic interview⁴ of the child or children at the time of the first response.

At this point, the first response team will include the DYFS investigator, the prosecutor's detective or local law enforcement designee, and, where appropriate, the assistant prosecutor. The primary goals of the three members will be to protect the child from maltreatment, gather the facts of the case, assess the risk of future abuse and neglect, share current and past history regarding the case and determine the service needs of the child and family members.

c. Time of Initiation of the Investigation

DYFS must comply with their prescribed time frames for initial response. Timing regarding initiation of a joint investigation will depend on the nature and time of the allegations and the risk to the physical and emotional well-being of the child.

If a child discloses an act of sexual penetration that took place within the last five (5) days, law enforcement and the DYFS investigator should immediately assemble and the videotaped interview of the child should take place immediately. In addition, where available, the Sexual Assault Response Team (SART)⁵ should be activated pursuant to the criteria set forth in the **Standards for Providing Services to Victims of Sexual Assault** and immediate contact should be made with the County SART Coordinator, under the following circumstances: where no other service provider is available on an immediate basis to ensure medical

⁴ It is important to note that use of the term "forensic interview" anywhere in this Protocol means one in which the primary purpose is to develop and assess information for use in the course of a criminal prosecution.

⁵ A Sexual Assault Nurse Examiner (SANE) is a professional Registered Nurse (RN) licensed in the State of New Jersey, specially educated to provide comprehensive care to sexual assault victims, who demonstrates competence in conducting a sexual assault medical forensic examination, and has been certified by the New Jersey Board of Nursing as Forensic Nurse - Certified Sexual Assault (FN-CSA).

examination and proper collection of forensic evidence.

If the act of sexual penetration took place more than five (5) days before the disclosure, then consistent with DYFS and law enforcement policies, an appropriate medical examination and services will be arranged. If the report relates to an act of sexual penetration that occurred less than six (6) months ago, then the videotaped interview should occur within forty-eight (48) hours of the initial report. If the disclosure concerns an act of sexual penetration that occurred more than six (6) months prior to the disclosure or involves an act of sexual contact, the interview should take place within seventy-two (72) hours of the initial report. (Procedures for conducting the interview are discussed infra.)

At the discretion of the County Prosecutor's Office, and upon consulting with the local DYFS office, the requirement for conducting an interview within the seventy-two (72) hour time period can be waived in cases where the alleged perpetrator is out of state or the allegation of abuse has not occurred for over a year.

In cases involving allegations of physical abuse or neglect, which are being jointly investigated, the response time will depend on such factors as enumerated here including but not limited to: any prior history of abuse or neglect, the seriousness of the injuries, and the risk to the child or other children in the home or other children in the care of the alleged perpetrator.

For example, if the report relates to shaken baby syndrome or if a child is hospitalized for injuries, law enforcement and the DYFS investigator should immediately respond. Based upon the medical condition of the child or children, law enforcement and DYFS should conduct a forensic interview of the child or children involved at that time. In cases of physical abuse, the forensic interview shall be conducted no later than five (5) business days from the date of the report. Photographs of any injuries should be immediately taken by DYFS, the County Prosecutor's Office, the local police, state police or county sheriff's office. In cases where law enforcement investigating the case is not responding immediately, at the request of DYFS, the local law enforcement agency where the child is located will photograph the injuries. The party taking the photographs will make copies available within two (2) business days to all others participating in the investigation.

Safety of the children is of paramount importance. Hence, all response

times set forth herein are contingent upon the child's safety. Where a suspect and child reside in the same household, the first response team should confer and the child should be interviewed immediately. It is the responsibility of DYFS to ensure the safety of the child at that time and nothing in this Protocol should be construed to impede any lawful steps to be taken by DYFS or law enforcement intended to ensure the safety of a child.

**d. Discovery of Criminal Conduct During Interview Process
When Law Enforcement has Declined Initial Involvement**

In any case in which law enforcement initially declined to conduct or have involvement in the interview process, if DYFS subsequently learns any information which may indicate criminal activity, DYFS will immediately notify the County Prosecutor's Office. For example, once a child discloses information indicating that he or she has been a victim of either sexual abuse or physical abuse or neglect falling under the purview of this Protocol, the DYFS worker shall not attempt to conduct a forensic evaluation of the child. Insofar as the best interests of the child allows, once a disclosure has been made, a DYFS worker should bring the conversation to a conclusion and tell the child that someone else will speak to the child regarding the information which the child has provided. The disclosure made by the child should then immediately be communicated to the County Prosecutor's Office and, if applicable, local law enforcement.

Section III
Forensic Interview Procedure

A primary goal of the investigative process by both DYFS and law enforcement is to limit the number of child interviews. At the time of immediate disclosure, the first responder, either the DYFS investigator or law enforcement, must make initial inquiry into the acts of abuse. This inquiry, however, should be brief and limited to the following:

The first responder will ascertain the child's name, child's guardian, the suspect's name, where the events took place and what occurred between the child and suspect. The interviewer will document their questions and the child's response. It is in the discretion of the interviewer, weighing the child's needs, vulnerabilities and the extent of disclosure, as well as the need to limit such interviews in time and scope, when to stop the child's disclosure. To the extent possible, the child's

initial disclosure should be reproduced verbatim in either the DYFS or police investigative report. Words spoken by the child should be placed in quotations. The substance of the initial disclosure should also be encompassed in a short statement. Follow-up questions should be avoided to the extent possible. The first responder must attempt to gather information from sources other than the child or children, such as the non-offending guardian, teacher or nurse, where applicable.

Unless decided otherwise by the members of the first responder team, the Prosecutor's detective or his designee shall conduct the forensic interview of the child or children. The interview will be videotaped. The interview room and the waiting area must be safe, non-threatening and child friendly. Members of the initial responding case investigation team will be able to watch the interview in "real" time as it occurs.

It is best practice that the forensic interviewer be a specially trained prosecutor's employee or specially trained designee. All forensic interviewers will have completed a training course on child interviews. This forensic interview should include the following: rapport building, anatomy identification, touch inquiry, abuse scenario and an appropriate closure that includes a discussion of safety. One or more of these stages may be eliminated or modified allowing for the developmental considerations and/or spontaneity of each child.

N.J.S. 9:6-8.10a(b)(2) permits the sharing of child abuse records with law enforcement agencies upon written request. The County Prosecutor's Office will provide DYFS with access to the videotape. The videotape may also be forwarded to the Regional Diagnostic Center for assistance in the medical evaluation. DYFS agrees not to furnish the videotape to any other third party, including a therapist, unless first authorized by the County Prosecutor's Office or based upon a court order obtained upon notice to the Prosecutor.

Section IV

Ongoing Case Management for Jointly-Managed Cases

Each County Prosecutor's Office has a Multi-Disciplinary Team in place. MDTs provide a case management team comprised of professionals from law enforcement, prosecution, child protection services, mental health, medicine and victim-witness. An MDT provides maximum access among the relevant agencies. The MDT Coordinator shall be the Point Person to coordinate between law enforcement agencies and DYFS. Management

of cases will be handled through the MDT, as organized by the MDT Coordinator. MDT review should be provided for all jointly managed cases of child sexual abuse and child physical abuse. The MDT should include a representative from each agency and each county is to institute an MDT Advisory Board to address interagency and countywide issues.

The MDT Coordinators will provide regular training for members of the MDT.

Section V

a. Information Sharing

A primary goal of the MDT is to facilitate the ongoing sharing of information. Forensic reports should be provided to both DYFS and the County Prosecutor's Office. There may be materials in the possession of DYFS or the County Prosecutor's Office which are not subject to routine sharing. For example, mental health evaluations are not a part of routine information sharing procedure; rather, they are not available unless otherwise relevant. The DYFS Deputy Attorney General (DAG) should be contacted by DYFS and coordination between the Assistant Prosecutor (A.P.) and the DAG should occur in the event that there is any question about the release of any document in the possession of either party. In the event that agreement cannot be reached between the attorneys, then either party can for good cause present the matter to the Assignment Judge of the County.

Issues of information sharing become particularly sensitive in the pre-indictment phase of a criminal investigation. Clearly, conflicts arise when there are dual civil and criminal proceedings, each with important goals of child protection but informed by differing standards of proof, time frames and obligations. In circumstances where pre-indictment investigatory materials are in the possession of the Prosecutor while a civil Title 9 proceeding is occurring, the DAG and A.P. should attempt to resolve disclosure issues. Where they are unable to do so, either party may file a motion, providing notice to the Law Guardian and counsel in the civil proceeding, before the Assignment Judge seeking an order regarding release of materials.

b. Case Review

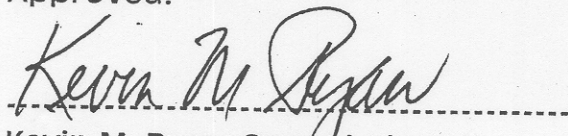
MDTs provide a means for initial and periodic review of cases within the system, so that victims and their families receive appropriate supports throughout the criminal justice process. A first review by the MDT Coordinator of a newly reported case should occur immediately. Periodic reviews should occur as scheduled by the MDT Coordinator, but every case should undergo review at least every 90 days.

In the event that a decision is made that no criminal prosecution will be pursued, the case may nonetheless be kept open for additional review if needed by DYFS or if there are medical or therapeutic issues to be addressed on an ongoing basis. No file shall be closed immediately without a review by the MDT.

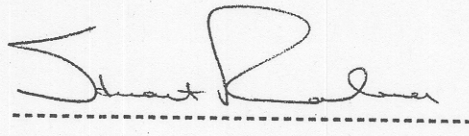
Section VI Dispute Resolution

Within each county, each County Prosecutor's Office and each DYFS Local Office will provide and update a list of supervisory personnel, including all relevant emergency contact information, to the other agency. The prosecutors will exchange the same information with the Institutional Abuse Investigations Unit and the Conflict Unit. Each County must set up and maintain a mechanism by which disputes will be expeditiously resolved. It is recommended that in the event that the Protocol fails to work and dispute resolution is needed, then law enforcement should contact DYFS or the Division of Law Deputy Attorney General based upon the information provided in the emergency list. DYFS should contact the on-call A.P. at the County Prosecutor's Office.

Approved:



Kevin M. Ryan, Commissioner
Department of Children and Families



Stuart Rabner, Attorney General

Dated: Jan 24, 2007

Dated: Feb. 6, 2007