

A CHILD'S DEATH IN FOSTER CARE – An Unavoidable Tragedy?
Department of Social Services Response
August 11, 2009

Finding 1: *“While agency policies and procedures were apparently followed by workers involved in this case, indications that all was not well with the foster family were overlooked.”*

Response: Partially Disagree. We do not agree that there were indications in the case record that would have allowed DSS to prevent the abuse of this child.

Recommendation 1: *“That Child Welfare Services implement a policy of regular, periodic review of ongoing cases with all involved workers and supervisors to detect patterns or changes in the foster home situation which might give rise to concern for the safety and welfare of the child.”*

Response: Partially Agree. The recommendation has been implemented. DSS has issued an expanded, more detailed policy statement to CWS staff to improve information dissemination.

The Department of Social Services is in full compliance with Federal and State program mandates, including case reviews on a regular basis. All cases are reviewed by the assigned social worker with his/her supervisor on at least a monthly basis. Case reviews are done more frequently if indicated by the specifics of the case. Cases that are new to the dependency system are regularly reviewed in Juvenile Court (sometimes as frequently as weekly or bi-weekly) while established dependency matters are heard less frequently. The Juvenile Court reviews involve review of the case by the Juvenile Court judge, parents' attorneys, children's attorneys, and CWS. All decisions to remove a child from their home or from a placement, return the child home, or to substantially change a service for a family are made by the Juvenile Court judge.

The recently released policy statement, “Child Abuse/Neglect Referrals on Children in Out of Home Care” (Attachment A), emphasizes the need for close communication when there are multiple caseworkers and supervisors working on the same case. As noted in the policy, all those involved in the case share information leading to a comprehensive assessment of the child's safety. Santa Barbara County utilizes the evidence-based Structured Decision Making (SDM) tools to assist the social workers and supervisors in their assessment and decision-

making. The assessment and use of the SDM tools are the basis on which decisions are made.

Finding 2: *“There is inadequate communication among various workers involved in the care of a foster child.”*

Response: Partially Agree. DSS agrees that communication among the various workers and other service providers involved in a case can be improved.

Recommendation 2: *“Child Welfare Services implement a policy to ensure there are face-to-face discussions between workers involved with a child, particularly when there is a transfer of the case from one division to another or a complaint is received.”*

Response: Partially Agree. This recommendation has been implemented. DSS has issued an expanded, more detailed policy statement to CWS staff to improve information dissemination.

Child Welfare Services has always utilized a formal case transfer practice which includes both written materials and face to face contact between case workers and supervisors. The attached Child Abuse/Neglect Referrals on Children in Out of Home Care policy (Attachment A) was released February 12, 2009 to institutionalize and strengthen the practice of caseworkers and supervisors closely communicating with one another when a new referral is received on a child in care. This policy specifically addresses Finding 2 and Recommendation 2 of the Grand Jury.

Finding 3: *“Some sources of information about the care of the foster child in the home were overlooked.”*

Response: Disagree. No information legally available to CWS was overlooked.

Recommendation 3: *“That Child Welfare Services make it policy to interview periodically all people involved including the foster child, all adults and children living in the home, and extended family, as a means of continually assessing the appropriateness of the placement.”*

Response: Disagree. This recommendation cannot be implemented.

There are legal limits regarding who can be interviewed by CWS workers. CWS does meet all Federal and State requirements regarding interview timeliness and practices.

Santa Barbara County Child Welfare Services meets all standards dictated by the Federal and State law and is in compliance with the Manual of Policy and Procedures, Division 31 regulations which outlines the requirements for social work practice in Child Welfare Services. As required in these State regulations, Child Welfare Services social workers conduct face to face contacts with all children, parents, and out of home care providers on at least a monthly basis. These contacts are designed to review and assess the well-being of the child as well as assess any needs evidenced by the caretaker. In order to obtain the most comprehensive picture of a child's situation, the CWS caseworker is also in regular contact with services providers who are working with the child, parent, and/or caretaker. Compliance with this important expectation is regularly monitored by supervisors and managers. CWS does *not* have the authority to interview the other children in the home unless there is a suspicion the child is a victim of child abuse/neglect. If there is such a suspicion, all children in the home are interviewed as well as the adults in the home, pursuant to defined State regulations. When issues *are* identified that warrant further, more intensive review, the manager will become involved to conduct a more intensive review with the supervisor and caseworker to reach a decision on what steps or actions CWS will take in this case. In many such cases, a Team Decision Making meeting will be called which may involve the family, caregiver, service providers such as mental health counselors, attorneys that represent the children, licensing/approval caseworker and supervisor, and any others who may have information about the placement and child. TDM's are led by specially trained facilitators and attempt to bring consensus around the best outcomes for the child and the family.

Finding 4: *“Not all staff were not (sic) aware of policies recently implemented by Child Welfare Services.”*

Response: Partially Disagree. CWS staff are regularly informed of new policies but not always tested regarding understanding.*

Recommendation 4: *“That Child Welfare Services management ensure all staff are instructed in new policies and procedures.”*

Response: Partially Disagree. This recommendation will be implemented. The current effective processes will be augmented to require each worker to sign a certification form attesting to their knowledge and understanding of each new policy.

Child Welfare Services has a robust and effective process for disseminating new policies and procedures. All changes in policies and procedures are thoroughly reviewed and discussed at monthly unit meetings. Attachment B contains the schedule for policy review in the unit meetings – new policies and procedures are folded into this schedule as they are released.

CWS is strengthening the monitoring and accountability process associated with ensuring that all supervisors and caseworkers are fully aware of any new policy or procedure change, have received a copy (paper or electronic) and have reviewed it and understand it. At unit meetings, the supervisor reviews the new policy or procedure with workers, administers a brief quiz that was developed in collaboration with the Staff Development trainer (Attachment C provides a sample), and then requires each worker to sign an attendance form certifying that they have read, reviewed and understand the new policy or procedure. (Attachment D).

- Attachment A: Child Abuse/Neglect Referrals on Children in Out-of-Home Care
- Attachment B: Policy Review Calendar
- Attachment C: Quiz
- Attachment D: Monthly Unit Meeting Training and Attendance Sheet



February 12, 2009

Child Abuse/Neglect Referrals on Children in Out of Home Care

I PURPOSE

Child Welfare Services (CWS) has a responsibility to ensure that all children that are placed in out-of-home care are in safe homes that will provide the support necessary for the child's optimum growth and development. The placement shall be in the least restrictive, most family-like setting consistent with the best interests and special needs of the child. It is the responsibility of CWS to ensure that all out of home care facilities maintain the highest level of standards and services as detailed in state regulations and any foster care contracts and/or statements of work.

Further, this Policy and Procedure addresses the overriding issue of how best to communicate the pool of information regarding referrals on dependent children in out of home care. It is essential that all pertinent information is communicated in a timely manner between units and brought to bear on decisions regarding the child(ren)'s safety in that home, and that the matter is staffed accordingly. The exchange of information between unit staff, supervisors and managers is essential to ensure the safety of dependent children in out of home placement. Such referrals will not be closed without a staffing, to include the case carrying CWW and supervisor, CWW and supervisor from the Assessment and Investigations Unit, and CWW and supervisor from Licensing when appropriate. The child(ren)'s safety can only be ensured if all parties with relevant information communicate promptly and work together as a team.

II SCOPE

This procedure is applicable to all CWS branch staff.

III AUTHORITY

Penal Code § 1165.12 establishes the following definitions:

- (a) "Unfounded report" means a report which is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in §1165.6."
- (b) "Substantiated report" means a report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in § 1165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred.

(c) **“Inconclusive report”** means a report which is determined by the investigator who conducted the investigation not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in § 111655.6, has occurred.”

Welfare and Institutions Code § 16501.1(c)

If out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family-like and...

Welfare and Institutions Code § 16501.15

As used in subdivisions (c) and (d) of § 16501.1, a home or setting that is “safe” means that the home or setting is free from abuse or neglect, as described in § 11165.5 of the Penal Code.

Welfare and Institutions Code § 16504

Any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and evaluation of risk services. Each county welfare department shall maintain and operate a 24 hour response system...

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31-405 sets forth the protocols for receiving and responding to child abuse referrals.

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31-125 establishes the protocol for the CWW initially investigating a referral. This CWW shall determine the potential for the existence of a condition or conditions which place(s) the child, or any other child in the family or household, at risk and in need of services and which would cause the child to be a person described by Welfare and Institutions Code §§ 300 (a) through (j).

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Community Care Licensing, Title 22, Division 6, establishes the protocol for investigation of complaints against any licensed facility.

All County Letter (ACL) 05-09, Reporting and Investigation Requirements for Child Abuse Allegations Regarding Children in Out-Of Home Placements

All County Letter (ACL) 07-52, The Use of Substantial Risk as an Allegation

IV POLICY

- A. This policy is applicable to all referrals and cases where children are residing in out of home care in licensed foster homes, small family homes, foster family agency homes, group homes, and relative/NREFM homes. When a referral is received regarding a child residing in the home of a parent or legal guardian, the determination of whether or not the referral is considered as out of home abuse, will be based on the following:
 - 1. For children in out of home care with no open CWS case (e.g., Kin-GAP, Probate Guardianship, or Non-Court Guardianship) the referral will not be considered out of home abuse; rather, it will be handled as a normal referral.

2. For children with an open CWS case who reside with a parent in either voluntary family maintenance or court ordered family maintenance, the referral will not be considered out of home abuse; rather, it will be handled as a normal referral and assigned to the ongoing CWW.
3. For dependant children in out of home care with an open CWS case, the referral will be considered an out of home abuse referral and assigned to an AIU CWW.

V. PROCEDURES

A. **When a Child Abuse/Neglect Referral is Received on a Child in Out of Home Care**

1. **Centralized Intake Unit (CIU) Responsibilities**

- a. CIU will assign the Emergency Response referral as an immediate to the AIU unit where the out of home caregiver resides. If the caregiver resides outside of Santa Barbara County, the referral will be assigned to the county in which the child resides.
- b. CIU will email all case-carrying CWWs (with children in that home), and their supervisors a copy of the referral and screener narrative to notify them about the referral and what office was assigned to respond.
- c. CIU will email the referral and screener narrative to the licensing workers and supervisor if it is a relative/NREFM placement or a county-licensed foster family home. CIU will cross report referral to CCL by fax if it is a group home, foster family agency home, or small family home. CIU will contact CCL by phone the next business day to verify that they have received the referral documents.
- d. If an out of home caregiver is identified as a perpetrator, CIU will create a new Client Notebook for the alleged perpetrator and identify the alleged perpetrator as "SCP/Res. Facility Staff" in the Allegation Notebook. In the event the alleged perpetrator is unknown, a Client Notebook will be created using the name of the facility as the last name (e.g., Eastside Home) and the facility type as the first name (e.g., Group Home).
- e. If, at the time the referral is being generated it is determined that the caregiver has children of their own who are alleged victims of abuse or neglect, a referral will be created for the children placed in the home as well as a separate referral for the biological children (this includes any child adopted by the caregiver). Both referrals shall be assigned to the same office responsible for the investigation of the referral alleging abuse in out of home care.
- f. For group homes, an e-mail will only be sent to the CWWs who have children in that home (and the CWWs' supervisors).
- g. CIU will utilize the same naming convention for any referral involving allegations of out of home abuse as referrals which do not involve out of home abuse.
- h. CIU will flag any referral involving allegations of abuse in out of home care of children who are under CWS supervision by entering in the Screener Alert Field a notation indicating "Out of Home Abuse". Further, CIU will research the identity of the SCP and identify their name and affiliation in the screener alert field. For example if the perpetrator is an FFA foster parent, the screener alert will indicate "Jane Caregiver-Kids r' Us FFA". CIU will also research any prior referral history on the perpetrator and indicate "No Prior CWS history" or "Prior CWS History", also in the screener alert field.

- i. When CIU receives a referral regarding a child in out of home care which does not deal with allegations of abuse and/or neglect, the CIU worker will send an e-mail to the case-carrying CWW and to his/her Supervisor. It will be the responsibility of that CWW to follow up on and take any necessary action to address the issues detailed in the e-mail.

B. Investigation of Abuse/Neglect Referrals on Children in Out of Home Care

1. Assessment and Investigations Unit (AIU) Responsibilities

- a. The assigned AIU CWW has primary responsibility for the assessment of the safety of all the children in out of home care, including all of the biological/adopted children of the caregiver residing in the home.
- b. At the time of referral assignment, the AIU CWW will contact the assigned ongoing CWW (and licensing workers as appropriate), and their respective supervisors, via email, to confirm their knowledge of the immediate response referral, and to initiate the ongoing investigative collaboration and exchange of information. The AIU Supervisor will notify the regional Division Chief that a referral involving allegations of abuse in out of home care has been received.
- c. Throughout the referral investigation/assessment the assigned AIU CWW will engage in ongoing verbal and/or written communication with their supervisor, as well as the ongoing CWW's and supervisors for each child placed in the caregiver's home. The AIU Supervisor will communicate with the Division Chief as needed throughout the investigation.
- d. The aforementioned communication, along with all investigative correspondence will be clearly documented in narrative contacts in CMS/CWS.
- e. The assigned AIU CWW will conduct a CMS/CWS search for the identified out of home care provider and collaborate with the ongoing CWWs (and licensing as appropriate), to obtain all prior reports of abuse and neglect as well as additional information regarding the said out of home care provider.
- f. The AIU CWW will contact Community Care Licensing (CCL) on all foster family agency certified homes or small family homes to obtain any and all prior reports of child abuse as well as additional information regarding the said facility. In order to obtain a prompt response from CCL staff, the CWW should ask to speak to a duty worker and identify themselves as a CWW who is conducting a child abuse investigation. Whenever possible, contact with CCL and acquisition of prior reports of abuse and neglect should occur prior to responding to the referral.
- g. Upon identification of allegations of physical and/or sexual abuse the assigned AIU CWW will promptly cross report to the appropriate law enforcement agency and request their participation in a joint forensic investigation.
- h. The AIU CWW will account for the whereabouts of all children in the home and conduct respective interviews.
- i. Whenever possible, the AIU CWW will include the assigned case-carrying CWW (and licensing worker as appropriate), to participate in the interview of the alleged victim(s).
- j. If the investigation reveals that the caregivers have children of their own, and there is indication that the children are victims of abuse/neglect and/or at risk, the AIU CWW will submit a referral of child abuse and/or neglect to CIU and the these children shall be interviewed and assessed for possible abuse/neglect.

- k. Whenever the investigation reveals that there are children placed by Probation, Regional Center or Department of Mental Health, not named on the referral, and there is indication that the children are victims of abuse/neglect and/or at risk, the AIU CWW will submit a referral of child abuse and/or neglect to CIU and the these children shall be interviewed and assessed for possible abuse/neglect.
- l. The AIU CWW will notify the placing agency of the referral as soon as possible and obtain any relevant information that may be useful in the completion of the investigation and to ensure the safety and well being of the children.
- m. In the course of the investigation if it is determined that a child residing in the caregiver's home is under the supervision of another county, the AIU CWW will submit a referral to CIU so that a cross report can be initiated to that County.
- n. The decision to remove a child from placement shall be made in conjunction with the ongoing CWW and supervisor (and licensing worker as appropriate). When the recommendation is to remove the child from placement prior to a seven day notice, consultation and approval will be requested from a Division Chief.

2. Licensing Unit Responsibilities

- a. For all child abuse/neglect referrals on County licensed Foster Family Homes and approved Relative/NREFM homes, the licensing worker will collaborate with the AIU CWW and the ongoing CWW to participate in the interview of the alleged victim(s).
- b. The Licensing worker will collaborate and communicate with the AIU CWW, ongoing CWW, and supervisors throughout the investigation process, and participate in joint staffings as detailed in this procedure.

C. Closure of Abuse/Neglect Referrals on Children in Out of Home Care

1. AIU Responsibilities

- a. In addition to the ongoing collaborative correspondence, before closing a referral, the assigned AIU CWW will initiate a collaborative closure staffing via email to include the ongoing CWW's and Supervisor's (and Licensing worker and Supervisor as appropriate), to discuss the disposition of the referral allegations and subsequent recommendations. The AIU Supervisor will notify the regional Division Chief of the investigation results and results of the collaborative staffing and recommendations prior to closing the referral.
- b. The results of the Structured Decision Making (SDM) safety and risk assessment tools; any prior Child Welfare and/or CCL history of the caregiver, including prior referrals regarding children placed in that home, as well as referrals/cases regarding any of the biological/adopted children of the caregiver; the results of any background checks, and the notification to the out of care provider of the referral disposition and DOJ notification as appropriate, will be clearly documented in a closure narrative contact in CMS/CWS. The assessment for each child shall consider:
 - 1. The child's health/physical condition (including, but not limited to, bruises, body marks, and injury)
 - 2. The conditions of the home
 - 3. The factor's influencing the child's vulnerability as described in SDM
 - 4. The family and/or caregiver's environmental stress and parenting skills
 - 5. The caregiver's substance abuse (if applicable)
 - 6. Availability of day care/respite care
 - 7. Any medical/psychological/police reports
 - 8. Collateral contacts

9. The ability of the family or caregiver to provide for the safety and well being of the child
- c. If any of the foster children placed in the home are not named as victims of child abuse and/or neglect, the use of substantial risk* shall not be considered an allegation of child abuse and/or neglect for those children. Instead, an allegation should be used that most closely corresponds to the referral (i.e., neglect, physical abuse, caretaker absence/incapacity, etc). *Substantial risk is reserved for Voluntary Family Maintenance cases.

2. Ongoing Unit Responsibilities

- a. If the ongoing CWW removes a child from a home due to child abuse/neglect based on information/circumstances obtained without a referral, it is the responsibility of that worker to make a child abuse/neglect referral to CIU.
- b. The ongoing CWW will collaborate with the AIU CWW (and the licensing worker as appropriate) to participate in the interview of the alleged victim(s).
- c. The ongoing CWW will collaborate and communicate with the AIU CWW (and the licensing worker as appropriate) throughout the investigation process, participating in joint staffings as detailed in this procedure.
- d. The ongoing CWW will notify the child's attorney of any referral investigation within 48 hours.
- e. The ongoing CWW will notify the child's parents and parents' attorneys of any referral investigation within 48 hours.
- f. The ongoing CWW is responsible for securing placement arrangements in the event that a child needs to be removed from placement.
- g. The ongoing CWW will be responsible for filing any subsequent petitions, detention reports, or JV forms when the decision is made to remove a child from placement.

3. Licensing Unit Responsibilities

- a. For all child abuse/neglect referrals on County licensed Foster Family Homes and approved Relative/NREFM homes, the licensing worker will collaborate with the AIU CWW and the ongoing CWW to participate in the interview of the alleged victim(s).
- b. The Licensing worker will collaborate and communicate with the AIU CWW, ongoing CWW, and supervisors throughout the investigation process, and participate in joint staffings as detailed in this procedure.
- c. Upon conclusion of the licensing investigation, notify the AIU CWW, ongoing CWW, and supervisors of the outcome and follow up with corrective or administrative action as needed in consultation with Division Chief.
- d. Consult with the licensing Division Chief regarding the use of Placements Holds and the appropriateness of the agencies continued use of the home for placement.

POLICY REVIEW CALENDAR

Attachment B

May 2009

Child Abuse/Neglect Referrals on Children in Out of Home Care

June 2009

Policy and Procedure for Concurrent Planning

Nonrelative Guardianship Home Studies

241.1 WIC Joint Assessment: Child within 300 and 601/602 Protocol

July 2009

Visual Examination of the Child for Suspected Injuries

Beeper Duty Protocol

Protocol for taking Children into Temporary Custody

Protocol for taking Children into Temporary Custody Without a Warrant or Law Enforcement Assistance

August 2009

DEC

Protocol for Mothers and Babies Born with Positive Toxicology

Sept. 2009

Child Abuse/Neglect Referrals on Children in Out of Home Care

Gomez Policy and Procedure

Procedure When Immediate Removal of a Child From Out of Home Placement is Being Considered (Without Seven Day Notice)

Oct. 2009

Foster/Group Home Placement Protocol

Protocol for Referring Relative and Non-relative Extended Family Members to the Relative Approval Unit for Assessment and Approval

Protocol for Assessment and Temporary Placement with Relative or Non-relative Extended Family Members

Nov. 2009

Feedback to Mandated Reporters and Non-Mandated Reporters

Child Death Protocol

Clinical Supervision Protocol

Fiscal Procedures

Dec. 2009

Special Immigrant Juvenile Status Protocol

Missing Children Protocol

Policy & Procedure for Psychotropic Medication for Dependents of the Juvenile Court

Jan. 2010

Case Plan

Family Preservation Protocol

Protocol for Extending Family Maintenance Services Beyond 12 Months

Attachment C

QUIZ: Policy and Procedure for Visual Examination of the Child for Suspected Injuries

1. If a parent refuses to allow a social worker into the child's home to investigate child abuse, what should the social worker do?
2. What are exigent circumstances in the context of investigating child abuse?
3. How do you determine whether physical harm has occurred to a child?
4. What do you NEVER EVER do when assessing the presence of physical harm?
5. What do you do if a child over 36 months becomes uncomfortable with the process or says "no"?
6. If you are going to conduct a visual examination, who should be there with you?
7. Are there any instances where you don't need parental consent of the parent/guardian before you conduct a visual examination? If so, what are (they)?
8. What do you do if the parent(s) or the child refuses to cooperate with the visual examination?
9. How are you to document the observable injuries?
10. What do you do if there is a suspicion of sexual abuse?

Santa Barbara County
Department of Social Services
Child Welfare Agency

Countywide Group Home/SB 163 Unit

Monthly Unit Meeting Training and Attendance Sheet

For July 14, 2009

Policies and Procedures Reviewed:

1. DEC Protocol (covered at Regional Meeting 7/8/2009)
2. Visual Examination of the Child for Suspected Injuries
3. Beeper Duty Protocol
4. Protocol for Taking Children Into Temporary Custody
5. Protocol for Taking Children Into Temporary Custody Without a Warrant or Law Enforcement Assistance

Training Time: _____

In Attendance:

By my signature I attest that I have read, reviewed, and understand the policies and procedures listed above:
