

EL DORADO COUNTY– CHILD PROTECTIVE SERVICES

GUIDELINES

**Title: Mandatory Reporting to the
Department of Justice**

Section Criminal
Background Checks
No. G-5
PM _____
Adopted _____
Revised _____

Policy

Child Protective Services (CPS) is mandated to submit the names of identified perpetrators on abuse and severe neglect cases to the Department of Justice (DOJ) when CPS conducted the primary investigation. This applies to all cases/referrals where abuse or neglect allegations have either been determined to be substantiated or inconclusive.

The determination as to whether a referral is substantiated or inconclusive is made by the investigating social worker in consultation with the supervisor.

Per Penal Code 11165.12:

(a) "**Unfounded report**" means a report that 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 Section 11165.6.

(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 Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred.

(c) "**Inconclusive report**" means a report that is determined by the investigator who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

Per Penal Code 11169, **the County shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect** which is determined not to be **unfounded**, other than cases coming within subdivision (b) of Section 11165.2 (General Neglect). The County shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not **unfounded**, as defined in Section 11165.12 (see above). If a report has previously been filed which subsequently proves to be **unfounded**, the Department of Justice shall be notified in writing of that fact and shall not retain the report.

Policy
(continued)

The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission.

At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index and provide them with the SOC 833, SOC 844, information on how to request a grievance hearing.

Agencies shall retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section and subdivision (a) of Section 11170. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.

CPS is required by law to submit to DOJ a report of every incident of suspected child abuse where an active investigation has been conducted, with the exception of the following:

- Unfounded, except to change a finding
- General Neglect
- Acts of non-exploitive, consensual behavior between minors under the age of 14 years who are of a similar age
- Acts of negligence by a pregnant woman or other person(s) which adversely affect the well-being of a fetus.
- Child Stealing, as defined in Sections 227 PC and 278 PC, unless it involved sexual, physical, mental/emotional abuse, and/or severe neglect.
- Statutory rape, as defined in Section 261.5 PC, except Section 261.5 (d) PC. (Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for two, three, or four years.
- Reasonable and necessary force by school employees to quell a disturbance threatening physical injury to person or damage to property (Section 11165.4 PC).
- Mutual fights between minors (Section 11165.6 PC)

Procedure

The social worker, upon completion of an investigation where the outcome has been determined to be substantiated or inconclusive, will complete the Child Abuse Investigation Report form, SS 8583,

see attachment A, in CWS/CMS. Complete the form as thoroughly as possible, the shaded areas are mandatory.

The social worker will forward the SS 8583, along with other closed referral paperwork, to CPS clerical.

CPS clerical will forward copies of the SS 8583 to DOJ, the appropriate law enforcement agency and the District Attorney.

The social worker will create and send out a notification letter, see attachment B ([insert letter link](#)), to the alleged perpetrator, notifying him/her that his/her name has been submitted to DOJ. The alleged perpetrators' appeal rights are explained in the notification letter along with the attached request for a **Grievance Hearing SOC 833** and **SOC 834** forms that explain the hearing process and request procedures, see attachments C & D ([or insert soc 833 834](#)).

If they disagree with the agency's submission of their names to the DOJ, they will be instructed to contact the office following the procedure in the hearing request SOC 834 form. If, after the hearing, it is determined that the alleged perpetrators' names were submitted in error, they will be notified in writing that the office will request their names be deleted from the DOJ files. If the decision is determined to have been appropriate, the alleged perpetrator will be notified in writing.

Retention

Referrals or cases in which an alleged perpetrator's name has been submitted to DOJ must be retained (not purged) as follows:

- Substantiated Cases – not destroyed
 - Inconclusive – 10 years (unless a new referral has been received then the file along with existing history would be maintained for ten years)
 - Unfounded – no requirement from DOJ to maintain
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