NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
40 NORTH PEARL STREET, ALBANY, NEW YORK 12243

CESAR A. PERALES
Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 86 ADM-38
(Family & Children's Services)

TO: Commissioners of Social Services
Directors of Societies for the Prevention of Cruelty to Children

SUBJECT: Child Protective Services Manual Update 86-1

DATE: October 22, 1986

SUGGESTED DISTRIBUTION: Directors of Services
Child Protective Staff
Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be directed to Frederic Cantlo, Regional Director, Metropolitan Regional Office, telephone 212-488-3485; John O'Connor, Regional Director, Eastern Regional Office, telephone 518-473-1095; Karen Schimke, Regional Director, Buffalo Regional Office, telephone 716-883-4091; or Frank Petrus, Regional Director, Western Regional Office, telephone 716-238-8201.

I. Purpose

The attached Program Manual Update 86-1 (September, 1986) describes the implementation of the following provisions of Chapters 263, 676 and 677 of the Laws of 1985:

- Chapter 263 requires that demographic and assessment information, including service plan and court-related activities, must be maintained on the Child Care Review Service for children who are named in indicated reports of abuse and maltreatment.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
86 ADM-9			Chapters 263, 676 and 677 of the Laws of 1985		Child Protective Services Program Manual

- Chapter 677 amended Section 422.4 of Social Services Law to provide access to information to: a district attorney, assistant district attorney or an investigator employed in the district attorney's office; officers of the State Police, New York City Police, a city, county, town or village police department or a county sheriff's department; the New York City Department of Investigation; chief executive officers of authorized agencies, directors of day care centers, directors of facilities operated/supervised by the State Education Department, Division for Youth, Office of Mental Hygiene or the Office of Mental Retardation and Developmental Disabilities; and a provider or coordinator of services to which a child protective service or a local district has referred a reported child. Section 422.4 also adds redisclosure provisions involving service providers in certain situations. Section 422.4 permits local districts to withhold access to information from certain individuals and organizations under specific circumstances. Finally, Section 422.4 amends access to information by a probation service to include reason to suspect the child's sibling may have been abused or maltreated, but restricts access to indicated reports. (Note: The detailed access provisions of Section 422.4 require careful examination where issues of access arise.)

- Section 34.a(2) of Social Services Law was amended to require local districts to include in the Consolidated Services Plan a summary of the understanding between the local social services district and the district attorney's office, which outlines the cooperative procedures to be followed by both parties in investigating incidents of child abuse and maltreatment.

- Section 424(4) of Social Services Law was amended to require Child Protective Service (CPS) to provide telephone notice to district attorneys of any or all reports of child abuse and maltreatment if the district attorney requests, in writing, such notice.

- Section 417 of Social Services Law was amended from "may take a child into protective custody..." to "shall take all appropriate measure to protect a child's life and health including, when appropriate, taking or keeping a child in protective custody...if he has reasonable cause to believe" a child is in imminent danger. Section 417 has also been amended to relieve physicians of the responsibility of taking protective custody.

The physician now shall notify the appropriate police authorities or the local Child Protective Service.

- Section 413 of Social Services Law was amended to add volunteers in residential facilities, district attorneys or assistant district attorneys and investigators employed in the office of a district attorney to the list of mandated reporters.

- Section 424-a of Social Services Law was amended to expand the 424-a clearance procedures to cover additional groups of individuals who are required or permitted to be screened by the State Central Register. It also expanded those agencies who may have access to the screening process. Section 424-a was amended to specify due process/review procedures for such clearances. These include specific timeframes as to when records must be submitted to the Department by a local district.

- Section 422.8 and Section 424-a of Social Services Law was amended to alter the conduct of an administrative review and fair hearing in which the issue is whether a report of child abuse and maltreatment should be maintained and if so in what manner. Additionally, amendments to these particular sections of law mandate timeframes both for the submission of records by local districts and for the State Central Register to follow in completing administrative reviews.

- Chapter 676 of the Laws of 1985 delineated specific jurisdicational directives as to the investigation of suspected abuse or neglect in congregate facilities caring for children. As part of this legislation, definitions of abused and neglected children in residential care were included, and provides for reporting, investigation and taking of corrective action. The Chapter also provides for the taking of action to prevent further abuse or neglect in the residential program.

II. Background

The Child Protective Services Program Manual was issued on March 18, 1986 to give CPS staff a single resource and reference document on this subject. The manual did not contain the 1985 legislative changes and local districts were informed that page replacements would be issued to address new changes necessitated by law or program changes.

The attached page replacements implement the provisions of the Child Protective Services Act of 1985, as specified in Section I.

III. Program Implications

The following Sections supercede the information currently contained in the Manual:

- Section IV D5-7, "Evaluation of Need for Protective Removal" and Section VII E1-3, "Protective Custody" have been revised to reflect the protective custody provisions.

- Section IV D10-15, "Using the Criminal Justice System", has been completely revised to reflect the law enforcement provisions specified in Chapter 677 of the Laws of 1985.

- Section IV G1-6, "Out-of-Home Settings", Section VI C1-5, "Child Protective Investigations" and Section V A2 - "Intake" have been revised to reflect requirements concerning out-of-home settings investigations.

- Section IV H2, 3, 8, 10, 12 & 13, "Uniform Case Record", Section X A2, "Access to Information (General)", and Section X C2, "Expungement and Amendment" have been revised to reflect the requirement concerning the maintaining of children named in indicated reports of child abuse and maltreatment on CCRS.

- Section V C1-3, "Expungement Review/Fair Hearings" and Section X C2, "Expungement and Amendment" have been revised to reflect due process provisions.

- Section V D1-4, "Clearances" has been revised to reflect the Clearance requirements.

- Section VII A1-2, "Mandated Reporters" has been revised to address the mandated reporter provisions.

- Section VIII P1-2, "Requests for Information From SCR" has been revised to address mandated time frames and other requirements for the submission of records by local districts.

- Section IX H & I1, "Other Reports of Abuse/Maltreatment" was revised to reflect the telephone notice to district attorneys provision.

- Section X B1-11, "Access to Information" has been completely revised to reflect the access to information provisions.

- Appendix B1-7 - Glossary, has been revised to include a definition of protective custody, and the statutory definitions of an abused child in residential care, neglected child in residential care, subject of the report, other person named in the report, custodian and residential care.

- Appendix D2-3, "Contact with law enforcement" was revised to reflect the telephone notice to district attorneys and the access to information by district attorneys and law enforcement provisions.

IV. Required Action

The enclosed page replacements are required to implement policy and procedures contained in the Child Abuse Prevention Act of 1985 and Chapter 263 of the Laws of 1985, and supercedes the information contained in the existing manual pages. These page replacements are not intended to be placed in the Manual. The actual pages for placement in the CPS Manual, a revised table of contents, and a transmittal sheet providing instructions for inserting the page replacements in the manual will be printed and sent at a later date to all individuals and agencies who were on the mailing list for the original mailing of the Child Protective Services Manual or who have since requested copies of the manual.

V. Effective Date

Chapter 263 of the Laws of 1985 which required that CPS cases be maintained on CCRS became effective on October 1, 1985. 86 ADM-6, which implemented the provisions of Chapter 263, became effective on February 27, 1986.

Chapter 676 of the Laws of 1985 which establishes a process for investigations of abuse and maltreatment in residential care and establishes definitions of abuse and maltreatment in residential care, became effective on April 1, 1986 with the Department taking those steps necessary for the Act to become operational on October 1, 1986.

Chapter 677 of the Laws of 1985 authorizes the following provisions: additional access to information, law enforcement, protective custody, mandated reporters, and 424-a clearance procedures. Chapter 677 became effective on January 1, 1986.

The effective date of this release shall be November 1, 1986.

Joseph Semidei

Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services

It is important to explain the investigation process as well as the Child Protective Service's authority to conduct the investigation. It is recommended that a notification letter be given at this time (see Notifications IX A1-IX B1.)

The main focus of the interview should be on the welfare of the children and the ability of the parents to provide adequate care. The caseworker may also gather background information from the family, ask about the parent's child-rearing practices, the parent's expectations of their children, the parent's ability to utilize resources, etc. It is vital to observe the condition of the home, the interactions between parents and child and between the parents themselves. If at all possible, at the conclusion of the interview the caseworker should share his/her tentative impressions and intentions with the family.

c. Child Interviews

Children named in the report should always be seen. They should be interviewed unless they are unable to communicate, i.e., too young to respond to even simple questions or handicapped to the extent that they could not participate in an interview. The initial contact with the child is to assess the validity of the report and to make a determination concerning whether or not the child is in imminent danger. This contact may take place in a variety of settings including a medical facility, school, (see Interviewing the Child At School IV D7-IV D8) or at home.

Care must be taken to provide a comfortable interview setting. The CPS worker should be patient and flexible. Rapport can be established with the child by asking him/her some general questions about him/herself and by explaining the purpose of the interview in a manner appropriate to the child's ability to understand. During the course of the interview, the CPS caseworker should ask questions in a non-judgmental and supportive way to elicit information concerning the allegations. The children need to be reassured that they are not bad, in trouble, or at fault; they need to know what will happen next.

It is important to observe and photograph alleged injuries. The caseworker should do so in a comforting, nonthreatening way.

d. Evaluation of Need for Protective Removal

SS Law 424.6
SS Law 417.1

Social Services Law mandates that all child protective investigations include a determination of the risk to the child(ren) if they remain in the existing home environment. Protective custody may be taken if the CPS caseworker "has reasonable cause to believe that the circumstances or condition of the child are such that continuing in his place of residence or in the

care and custody of the parent, guardian, custodian or other person responsible for the child's care presents an imminent danger to the child's life or health."

FCA 1022 & 1024

If it is necessary, Child Protective Services has the authority under the Family Court Act to remove the child. (See Family Court Proceedings IV J1-IV J3 and Protective Custody VII E1-VII E3.) The following guidelines are presented to assist caseworkers in determining the child(ren)'s need for protection. The situations below may constitute imminent danger and may call for emergency removal of the child.

- The maltreatment in the home, present or potential, is such that a child could suffer permanent damage to body or mind if left there.
- Although a child is in immediate need of medical or psychiatric care, the parents refuse to obtain it.
- A child's physical and/or emotional damage is such that the child needs an extremely supportive environment in which to recuperate and it is assessed that the child's home would be inadequate.
- A child's sex, age or physical or mental condition renders the child incapable of self-protection--and for some reason constitutes a characteristic the parents find completely intolerable.
- Evidence suggests that the parents are torturing the child or systematically resorting to physical force which bears no relation to reasonable discipline.
- The physical environment of the home presents an immediate threat to the health and safety of the child.
- Evidence suggests that parental anger and discomfort with the investigation will be directed toward the child in the form of severe retaliation against him or her.
- Evidence suggests that the parent or parents are so out of touch with reality that they cannot provide for the child's basic needs.
- Evidence suggests that the parents' physical condition poses a threat to the child.
- The family has a history of keeping the child at home and away from peers, school or other outsiders.

- The parent or parents abandon the child.*

In certain cases where removal of the child from the home would not be ›ppropriate, filing an abuse or neglect petition in Family Court may be just 'ied. Initiating Family Court proceedings under FCA 1031 et. seq. should be onsidered as a means of protecting children. (See Family Court Pro ›edings IV J3.)

e. Interviewing the Child at School

Certain circumstances alleged in a report may make it advisable to inte view the child(ren) apart from the family. In those instances where time is a fa tor, where imminent danger to a child is perceived, or where there exist oth reasons for making use of this special interview setting (for example, a chil s need to talk privately with the caseworker), it may be advisable that CPS interview a child at school. In such instances, the child's school is generally the most appropriate setting. The school setting may also provide an opp 'tunity for the caseworker to observe and/or photograph a child alleged to be ›used or maltreated. This contact may be prior to or following an inte view with the parents.

Interviewing a child in his/her school setting is predicated upon ong ng cooperation and dialogue with school authorities so that both the CPS cas vorker and the school authorities understand each other's policies, resp nsibilities and procedures. If school officials are not cognizant of State Edu ıtion Department policies or if there is little cooperation with the local dist ct Child Protective Service in this regard, the matter should be referred by a propriate agency personnel to the State Education Department, Bureau of Sch ›l Psychological and Social Services.

The circumstances or allegations which prompt a decision to interview a ch d at school may include, but are not limited to:

- bruises inflicted by parents
- unusual punishments
- unattended illness
- child fearful of returning home
- parental abandonment
- sexual abuse

*Based on James L Jenkins, Marsha K. Salus, Gretchen L. Schultze, Child Protective Services - A Guide for Work rs User Manual Series (U.S. Department c Health, Education and Welfare, 1979), p. 49-50.

FCA 1032 and 1034.2

- Initiation of appropriate Family Court Action: The assistance of the court may be necessary when the caseworker feels entry into the home must be made to assess the perceived risk to the child's life or health. The caseworker should consult with a supervisor and/or legal counsel to determine the necessity for proceeding with court action.

Caseworkers should persist in their attempts to gain cooperation from the reported family. Repeat visits, telephone calls or explanatory letters from the caseworker may be instrumental in achieving the desired access and cooperation.

5. **Using the Criminal Justice System**

a. Rationale

SS Law 411

The New York Child Protective Services Act (1973), Title 6, Article 6 of the Social Services Law, provides for intervention in families where child abuse and maltreatment occurs. The Act emphasizes a social services approach to intervention and gives responsibility for investigating reports of suspected cases of abuse and maltreatment to local child protective services in order to provide protection for the child and rehabilitative services for the family. The Act permits a role for law enforcement involvement in certain investigations of suspected cases of child abuse and maltreatment since many actions, such as sexual abuse, are also crimes as defined under the New York State Penal Law.

SS Law 424.4

Both the police and the district attorney can be of assistance to child protective services in certain situations. Until recently, this was done only rarely. However, many child protective services in New York and across the country have begun to work more closely with law enforcement. Underlying this shift to combine a criminal justice approach with child protective services are years of experience in working with involuntary clients and recognition of the need for more proactive intervention to engage the family in rehabilitative treatment and/or to pursue judicial remedies against the subject of the report to protect the child from further harm.

b. Communication with the District Attorney's Office and Police Agencies

SS Law 424.4

CPS information is confidential and cannot be revealed except as the law expressly authorizes. Under Section 424.4 of the Social Services Law, the local child protective service shall give immediate telephone notice to the district attorney of reports involving the death of a child and forwards to the district attorney a copy of reports involving the death of a child made pursuant to Article 6, Title 6 of the Social Services Law. Further information may be

obtained pursuant to Section 422.4 of the Social Services Law. (See Obtaining Access to CPS Information X B6.)

18 NYCRR 432.2(e)(3)(vii) 432.3(g)

The district attorney shall receive a copy of any or all reports if a prior written request is made to the local child protective service. Section 424.4 of the Social Services Law requires local districts to provide telephone notice to district attorneys of any and all reports of child abuse and maltreatment if the district attorney has requested, in writing, such notice.

The request for copies of reports and telephone notice can be written so that it need only be made once to cover all future similar reports. Such requests must specify the categories of allegations as identified on the DSS-2221 that the district attorney requires notice and/or copies and should cite the relevant provisions of law authorizing disclosure. The district attorney may also request to receive copies of subsequent reports. The district attorney has access, without additional authority, to the information contained in the DSS-2221, 2221A, 2222 and 2223 reports involving fatalities and other kinds of allegations where prior written request is made.

SS Law 424.10

In those cases where the family has refused an appropriate offer of service or the child protective service determines, for any appropriate reason, that the best interests of the child requires criminal court action, the local child protective service may make a referral to the district attorney. In this instance, only the information contained in the DSS-2221, 2221A, 2222 and 2223 reports should be shared with the district attorney. Further information may be shared pursuant to the requirements of Section 422.4(A) of the Social Services Law. (See Obtaining Access to CPS Information X B6-B7.)

SS Law 422.4(A)

Social Services Law 422.4(A) requires that access to any other information by a district attorney, assistant district attorney or an investigator employed in the DA's office be limited to those situations certified as being necessary to conduct a criminal investigation of the subject of the report or to prosecute the subject of the report and the investigation is reasonably related to the allegations contained in the report. (See Access to Information (CPS) X B6-B7.) Information may be withheld pursuant to the requirements contained in Section 422.4(B) of the Social Services Law. (See Denial of Access by Local Districts X B8-B9.)

SS Law 422.4(A)

Access to information which may not be shared pursuant to the authority referenced above may only be obtained by the district attorney pursuant to court order, at the request of a grand jury or with authorization of the subject of the report or other person named in the report. A grand jury may obtain information contained in the case record upon finding that the information is necessary for the determination of charges before it.

A decision to initiate criminal prosecution of a case of child abuse and maltreatment is the responsibility of the district attorney. The criminal investigation may be conducted through the district attorney's office or by a police agency designated by the district attorney.

The local CPS should attempt to obtain the cooperation of the local police agencies and the district attorney's office in obtaining access to information contained in police records during investigations of child abuse and maltreatment. If criminal prosecution is initiated, child protective services should also be informed of the significant decisions in the prosecution of the case. Agreements with police agencies and the district attorney concerning sharing of information should be contained in the summary of understanding with the district attorney's office. (See Using the Criminal Justice System IV D 13.)

c. Development of Cooperative Investigative Procedures with the District Attorney

SS Law 34-a(2)

18 NYCRR 432.2(e)(2)(viii)

Each local district must include in the Consolidated Services Plan, and where appropriate, in the annual implementation reports, a summary of the understanding between the local social services district and the district attorney's office which outlines the cooperative procedures to be followed by both parties in investigating incidents of child abuse and maltreatment consistent with their respective obligations for the investigation or prosecution of such incidents, as otherwise required by law. Such procedures must be consistent with the duties and responsibilities of CPS concerning intake; investigation/assessment; providing, arranging for and/or coordinating services; and monitoring. (See Intake IV C, Investigation/Assessment IV D, Determinations IV E and Assessment Service Plan/Service Provision IV F).

The summary of the written understanding may consist of a brief statement that the local district has developed procedures for coordinating investigations of child abuse and maltreatment or a summary of the reasons why such procedures have not been developed in spite of a good faith effort by the local district to do so. It is the responsibility of the local district to meet with the county district attorney to develop procedures for coordinating investigations of child abuse and maltreatment. The local district must not, however, agree to procedures that would violate the responsibilities of CPS in accordance with Social Services Law.

18 NYCRR 432.2(e)(3)(xxvi)

Local districts must also provide assurance in the Consolidated Services Plan that they have developed or have made a good faith effort to develop a written understanding with the district attorney's office which specifies the procedures to be followed by both parties in investigating incidents of child abuse and maltreatment, consistent with their respective

obligations for the investigation or prosecution of such incidents as otherwise required by law and in accordance with the duties and responsibilities of CPS. Such a written understanding should include the following information:

- A general statement concerning the roles and responsibilities of CPS and the District Attorney's office in investigations of child abuse and maltreatment.
- A listing of the kinds of allegations as specified on the DSS-2221 that the district attorney has requested to receive copies.
- A listing of the kinds of allegations as specified on the DSS-2221 that the district attorney has requested to receive telephone notice and copies.
- Identification of the appropriate law enforcement agency(ies) who is to conduct the initial investigation and procedures regarding notification of such agency.
- Procedures concerning the coordination of the investigation, including but not limited to: preparations before initial contact; coordinating initial interviews; and gathering of evidence, including the taking of photographs.
- Procedures concerning the circumstances information will be shared between the county district attorney's office/police agencies and CPS during investigations and prosecutions of child abuse/maltreatment cases.
- Procedures concerning the coordination of concurrent Family Court and Criminal Court proceedings.

18 NYCRR 432.2 (e)(4)

In addition to the above requirements, the written understanding shall also contain a written list of the names, office addresses, and office telephone numbers of representatives of the child protective services, district attorney's office and police agencies who will serve as liaisons to facilitate working relationships and cooperation on child abuse and maltreatment cases. The written understanding must be kept in the documentation file in the local district. The documentation file consists of program information which describes the operation of local child protective services and which provides evidence as to the methods by which local districts adhere to the Legal Assurances set forth in the Consolidated Services Plan.

d. Coordinating CPS and Criminal Investigations

Both child protective services and the district attorney's office in conjunction with police agencies have specific responsibilities when conducting investigations. Child Protective Services conducts civil investigations which focus upon the immediate protection of the child from further abuse or maltreatment and the future rehabilitation of the family. Law enforcement is responsible for the criminal investigation which focuses on the gathering of evidence and apprehension and punishment of the offender. For these reasons, the CPS investigation cannot be delegated to the police or the District Attorney.

SS Law 422.4(A)

In most situations, the police will be acting as agents of the District Attorney's office when conducting criminal investigations. Social Services Law 422.4(A) permits access to CPS information by local police agencies, other than the State Police or the NYC Police Department, in situations where such officers are participating in an investigation of the subject of a report and the investigation is reasonably related to the allegations contained in the report. In addition, the local social services district to which the request for information is made must indicate in its Consolidated Services Plan the local police agencies which are entitled to such information. Sworn officers of the State Police or the New York City Police Department are permitted access to CPS information when such officers certify, in writing, that the records and reports are necessary to conduct a criminal investigation of the subject of the report and that such investigation is reasonably related to the allegations contained in the report. (See Access to Information (CPS) X B 7.)

However, circumstances may arise where police may assist child protective services staff in the civil investigation. Such circumstances would include situations where law enforcement presence is necessary to protect children, family members, CPS staff or others.

The child protective service should request the police to accompany workers if:

- a child is in danger and the worker cannot enter the home or other place where the child is located; this may be necessary if, for example, the child has been abandoned or forced entry is necessary to protect unsupervised children;

- there is possible danger to the CPS worker. Potentially dangerous situations may include the following: the caseworker has been threatened with violence; the parent's behavior is highly unpredictable due to drugs, alcohol, or mental illness; the investigation must be conducted in an excessively high crime neighborhood; the investigation must be conducted late at night;

- serious harm, or threat of serious harm to the child and family, suggests that police involvement is needed. This would include situations in which the child's life is in jeopardy or the child has died.

The child protective service should notify the police that there is an immediate need for intervention in the following situations:

- in cases in which a crime is believed to be occurring;
- when the family makes itself inaccessible and there is reason to fear for the safety of the child; or
- when an immediate response is essential and police proximity to the child's location gives the police faster access than the child protective service has.

In the situations described above and in other emergency situations (i.e., a domestic violence call), the police may be the first officials to investigate an incident of child abuse and maltreatment. In such situations, Section 417.1 of Social Services Law permits a law enforcement official to take a child into protective custody. (See Protective Custody VII E1.)

Whenever police escort/intervention has been requested or when the police have taken protective custody of the child, the CPS worker may share information verbally with the police which will aid in providing emergency assistance to the child, i.e., nature and extent of injuries, family composition.

It is essential that CPS and law enforcement investigations be coordinated and procedures be clearly stated in the written understanding between CPS and the district attorney's office. Such procedures will enhance communication between agencies, reduce the likelihood of confusion as to the roles and responsibilities of each agency and reduce the amount of trauma experienced by the child and family as a result of the investigations. Where consistent with confidentiality constraints, informing each other of actions taken during their respective civil and criminal investigations allows the worker and police officer to make decisions in concert that provide protection for the child. A team creates a coordinated approach and facilitates accomplishment of both the child protective and law enforcement tasks. Communication will assist in avoiding possible conflict between law enforcement and child protection. It is important that law enforcement and CPS inform each other of their involvement in the case, what their respective duties include and when significant decisions are made. If questions arise concerning the team approach, confidentiality, case decisions, or the respective duties of CPS workers and law enforcement officers, local districts should consult with their County Attorney or the Office of Legal Affairs of the New York State Department of Social Services.

(G) OUT OF HOME SETTINGS

SS Law 424-b

Social Services Law mandates when the child resides in a foster home supervised by an authorized agency (including local DSS -certified homes) and a child protective report is received by the SCR, concerning that child, the report is referred for investigation to the social services district in which the home is located. The same section of law requires child protective reports involving a child residing in a foster home operated by the Division for Youth, Office of Mental Health, or Office of Mental Retardation and Developmental Disabilities be referred by the SCR to the appropriate operating agency for their investigation and follow-up.

A child protective report received by a local district involving a child or children suspected of being abused or maltreated in a foster home or day care setting involves coordination of the investigation conducted by the local district's CPS staff and the appropriate State Regional Office.

SS Law 422.11(a)

A child protective report involving a child or children suspected of being abused or maltreated in a residential care facility or program which is licensed by the State Department of Social Services, Division for Youth, or State Education Department is investigated solely by the State Department of Social Services (Regional Office). A child protective report involving a child in residential care licensed by an office of the Department of Mental Hygiene (Office of Mental Health, Office of Mental Retardation and Developmental Disabilities) is investigated by the State Commission on Quality of Care for the Mentally Disabled.

There are three separate procedures for conducting investigations in out-of-home settings. These three types of case investigation procedures are referred to as:

Type I - These procedures involve reports of suspected abuse or maltreatment of children who reside in or attend facilities licensed under State jurisdiction which are not certified or operated by a local district including State Department of Social Services-licensed or-certified day care centers, family day care homes and foster homes licensed by voluntary agencies. The Type I investigation procedures also apply to day care facilities licensed by the New York City Department of Health and to family day care homes certified by an authorized agency other than a local social service district. In these situations the sole responsibility for conducting the investigation and making a determination is with the local child protective services. The Regional Office plays a contributory role (see State Regional Office VI C1-VI C2).

Type II - these procedures involve reports of suspected abuse or maltreatment of children who reside in or attend homes certified or operated by the local department of social services including local district - certified or - operated foster homes, family day care homes, and agency operated boarding homes. Here, it is the responsibility of both the local child protective service and the State Regional Office to conduct an investigation and to make independent determinations (see State Regional Office VI C1-VI C2).

Type III - these procedures involve reports where it is suspected a child is an "abused child in residential care" (see Appendix B1) or a "neglected child in residential care" (see Appendix B5) who reside or attend facilities which are operated, licensed, or approved by the State Department of Social Services, Division for Youth or State Education Department. Specifically, Type III investigation procedures apply to Department of Social Services licensed or certified group homes or child care institutions, Division for Youth facilities or programs (except foster family care), New York School for the Blind and New York State School for the Deaf, private residential schools providing special education services or programs, institutions for the deaf and blind which have a residential component, and residential placement of a child with a special act school district. For these situations the sole responsibility for conducting the investigation and making a determination is with the Department (State Regional Office). (See State Regional Office VI C2-VI C4).

Type I and Type II

1. Investigations

Local district procedures for conducting the investigation are similar to those outlined for in-home settings, with the added responsibility for working with and sharing information with a Regional Office representative. In both Type I and Type II investigations, the CPS caseworker should become familiar with the facts of the report reeeived from the SCR and be prepared to discuss the facts regarding the case and the conducting of the investigation with the Regional Office representative.

The local CPS requirements for conducting the investigation include:

- initiating the investigation within 24 hours after receipt of the initial oral report by the local CPS (face-to-face contact with the subject of the report may also meet this requirement for out of home settings (see Initiation of Investigation IV D1-IV D2));

- reporting deaths to the district attorney and medical examiner or coroner;
- contacting the reporting source;
- interviewing the subject and the alleged victim;
- determining the risk to the child(ren) and taking protective custody if there is imminent danger to the child(ren)'s life or health;
- delivering or sending the notification letters to the parent(s) or guardian(s) of a child alleged to be abused or maltreated and to the subject of the report (person alleged to be the perpetrator of the alleged abuse or maltreatment) (see Notifications IX B1);
- submitting a report of the preliminary investigation (DSS-2222) to the SCR within seven days of the initial report.

In addition, the local CPS should:

- interview collateral contacts, including:
  - knowledgeable representatives of the day care center, preferably the staff on duty at the time of the alleged incident;
  - the local DSS staff members responsible for the child and home;
- obtain a description of the alleged incident and written statements, if possible, from day care staff or household members of the foster home, copies of the incident reports from the day care director, medical documentation that the child was examined, etc.;
- maintain on-going contact with the Regional Office representative;
- maintain a child-specific/adult-involved specific investigation; deficiencies in the day care center or foster home should be included in a separate report;
- maintain an appropriate case record, including any reports provided by the Regional Office.

2. **Determination**

As with all reports, upon completion of the investigation the CPS caseworker must determine within 90 days of the receipt of the report whether the report is indicated or unfounded. (See Determinations IV E1-IV E2.) This includes:

- determining whether some credible evidence of abuse or maltreatment exists relative to the definitions of child abuse or maltreatment (See Appendix C);
- when the report is indicated, developing a plan for corrective action which ensures the safety and protection of the child;
- completing and transmitting DSS-2223 to the SCR within 90 days;
- notifying the parents and subject of indicated reports and of their rights (see Notifications IX C1);
- informing the local DSS with custody of the child of the results of the investigation.

In Type II investigations, where case determinations made by the local CPS and the State Regional Office do not agree, consultation between the supervisory staff of both is required. If no agreement on a determination can be reached after this process, both determinations will be reviewed by the appropriate monitoring staff at the SCR, who will offer assistance in resolving the disagreement. In the event a satisfactory resolution cannot be reached, the matter will be decided jointly by the Director of the Bureau of State Operations and the Director of the State Regional Office of the Division of Family and Children Services. In situations where the local child protective services and Regional Office are in disagreement, no notifications letters of an indicated determination are to be sent to the subject or to the child's parent(s) prior to resolution of the disagreement.

The local CPS is responsible for continuing service reports to the SCR whenever an indicated case remains open for service. When the child's welfare and protection have been assured and, where necessary, an acceptable plan for corrective action developed, the local CPS will terminate its involvement with the case.

3. **Corrective Action**

SS Law 424.10

The primary objective for any plan of corrective action for an indicated report should be to ensure the safety and protection of the child. All necessary steps should be taken to achieve this result. However, it should be noted that the remedies of Article 10 of the Family Court Act do not apply to foster care or day care incidents of abuse or maltreatment. Notwithstanding, if the best interests of the child require Criminal Court action, a referral should be made to the appropriate district attorney.

SS Law 400

Potential civil remedies include the removal of the child from the foster care setting. For children removed from day care settings, an attempt must be made immediately to contact the child's parents or guardians and have them assume responsibility for the care and well-being of the child.

The primary role of the local Child Protective Service should be one of advocacy on behalf of the child. This includes information and referral to services and programs which are needed by the child. In day care or day services situations, the local child protective service should also assist the child's parents or guardians in obtaining necessary services and/or remedies.

A disciplinary action taken by the day care facility against a day care employee should be considered a separate matter from the child protective case. Furthermore, the standard of proof required in union grievance proceedings for disciplinary matters is higher than that of some credible evidence which is required to indicate a child abuse or maltreatment report.

In the case of day care or foster care programs which are unlicensed or uncertified, a referral should be made to the appropriate licensing or certifying agency. Actions which constitute abuse or maltreatment generally will also be in violation of licensing or certification requirements. Thus, if a program deficiency is viewed as contributing to the occurrence of an abuse or maltreatment incident in a licensed or certified day care or foster care program, the appropriate licensing or certification agency should be notified.

Type III

Reports to the SCR where it is suspected a child is abused or neglected while residing in or attending a group residential care facility licensed by the Department, DFY, or the State Education Department are investigated exclusively by Regional Office staff (See Regional Office Child Protective Investigations VI C1 - VI C5).

SS Law 422.11(a) 422.10 SS Law 400

A local district however, receives notice from the Regional Office of the existence of a report and the determination whenever such reports involve children who are in the custody of the local district. After receiving notification of the existence of a report, the degree of further involvement the local district has with a particular case depends upon the specific circumstances. The local district should assess the child's level of safety by communicating with the Regional Office investigator and with child care facility personnel. Further, when deemed appropriate to fully assess the situation, the local district, after informing the Regional Office of their plan, may visit the child at the residential care facility. Upon the recommendation of the Regional Office or in situations where the local district determines that the child continues to be harmed or is at risk of harm, the local district should take action to remove the child from the residential setting. Additionally, the Regional Office may request the local department in which the residential facility is located to remove the child. This would occur when immediate action to remove the child is warranted, but due to the geographic distance between the local district with custody and the residential facility the custodial district is unable to respond quickly enough in removing the child.

- Progress Notes as required by the Uniform Case Record Standards and the Child Protective Services Law and regulations; and

- any other locally required documents.

Upon an unfounded determination, expungement requirements are to be followed.

Caseworkers should record the time spent investigating the protective report on a services Activity Log or a local equivalent for entry into the Social Services Reporting Requirements system (SSRR) (for all districts except New York City) under the generic category of PROT. Cases under investigation should not be authorized for protective services in WMS.

b. At Determination

Uniform Case Recording requirements take place along a set timeline beginning with "Day 1." Day 1 is the Case Initiation Date (CID). The CID is defined as one of the following, whichever occurs first for any family member:

- Date of Indication

- Date of Application (request for foster care, preventive or adoption services)

- Date of Placement

- Date of Court Order.

If indication of a protective report is the earliest of the activities listed above and the case will remain open for Protective Services the following activities must take place on Day 1:

- complete a case record face sheet, and/or

- complete a WMS common application form (The case must be opened in WMS within 30 days of the Application Date for Protective Services for Children i.e., service type 17 must be authorized as well as any other services being provided.)*

- complete a UCR Initial Assessment and Service Plan

- register the case via Supplemental Registration in CCRS

*For further discussion of services system procedures, consult "ISIS Case Processing Manual."

- encode and enter the CCRS Assessment Plan Grid and enter any legal and movement activities.

- send copies of the plan pages of the UCR Initial Assessment and Service Plan (those pages designated by the appearance of an "SCR number" field) and the DSS-2223 (see Forms and Procedures VIII G1-VIII G10) to the SCR.

If authorization of foster care or preventive services preceeds an indicated case determination by 30 days or less, the UCR Initial Assessment and Service Plan must be completed on the Day of Indication. For cases indicated after the completion of a UCR Initial Assessment and Service Plan, a Plan Amendment must be completed on the Day of Indication.

c. Following Determination

Whether a UCR Initial Assessment and Service Plan is completed at indication, as in CPS cases, or within 30 days from Day 1 (CID), as in non-CPS cases, all cases requiring UCRs must have the following forms completed according to the following timetable:

- a Comprehensive Assessment and Service Plan must be completed within 90 days from Day 1 (CID)

- a Reassessment and Service Plan Review must be completed six months from Day 1 (CID) and every six months thereafter.

A UCR Plan Amendment form must be completed on the date of the status change for protective status changes and within 30 days of the status changes for foster care and/or preventive status changes.

d. UCR/SCR Integration

For all open, indicated protective cases, each time a UCR form is completed the appropriate pages (those pages designated by the appearance of an "SCR Number" field) are to be copied and submitted to the SCR along with the DSS-2223. (See Forms and Procedures VIII G1-VIII G10.) The time frames for completion of UCRs and DSS-2223s are identical. This integration ensures that reports made to the SCR incorporate a child and family service plan that is a unified and consistent plan for indicated protective cases.

appropriate permanency planning goal.);

- placement information, including appropriateness of placement and visiting plan if the child(ren) are receiving foster care in addition to protective services;

- service arrangements which describe each problem and the actions planned to meet the family and child(ren)'s needs; service needs related to the risk of further abuse/maltreatment should be addressed;

- a summary of the involvement of the parent, child(ren), and any others in the development of the service plan.

In addition:

- signatures of the case planner, the case planner's supervisor, case manager, and, if appropriate, the signature of the Child Protective Services monitor;

- while the client's signature is not mandated, caseworkers should attempt to involve the client in the assessment and planning process and to obtain the client's signature whenever possible;

- a CCRS Assessment Plan Grid must be completed and data entered for "Protective" cases;

- CCRS legal, movement and adoption activities must be recorded and data entered as appropriate.

c. Comprehensive Assessment and Service Plan

A single assessment and service plan is to be completed for all family members on one document. The following should be included in the comprehensive assessment:

- the family and child(ren)'s history, including any information gathered since completion of the initial assessment of the family and child(ren), particularly as it relates to the indicated protective case, including previously indicated reports and relevant service history, if any;

- actions taken to meet the family and child(ren)'s needs, a summary of court involvement, and the client's response to intervention;

In addition:

- signatures of the case planner, the case planner's supervisor, case manager, and, if appropriate, the signature of the Child Protective Services monitor;

- while the client's signature is not mandated, caseworkers should attempt to involve the client in the assessment and planning process and to obtain the client's signature whenever possible;

- a CCRS Assessment Plan Grid (turnaround) must be completed and data entered for "Protective" cases;

- CCRS legal, movement and adoption activities must be recorded and data entered as appropriate.

d. Reassessment and Service Plan Review

A single reassessment and service plan review is to be completed for all family members on one document. The following should be included in the reassessment:

- an updated assessment of the family which describes changes in the family situation and summarizes the family's current functioning in terms of problems and assets focusing on the family's ability to care for the child, the risk for the child if (s)he remains at home or returns home, and considering:

  - family's potential to harm the child(ren)

  - family's ability to protect the child(ren) or to prevent future harm

  - family interaction, ability to cope with stress, and family strengths

  - availability of supports to the family

  - family's capacity to care for the child(ren)

  - the family's and children's needs for services, including the family's progress in dealing with the problem or situation which gave rise to the report of abuse or maltreatment

services, a discussion of the frequency and quality of parent-child(ren) visiting and an updated visiting plan;

- a summary of the involvement of the parent, child(ren), and any others in the development of the service plan, and a listing of the participants in the service plan review.

In addition:

- signatures of the case planner, the case planner's supervisor, case manager, and, if appropriate, the signature of the Child Protective Services monitor;

- while the client's signature is not mandated, caseworkers should attempt to involve the client in the assessment and planning process and to obtain the client's signature whenever possible;

- a CCRS Assessment Plan Grid (turnaround) must be completed and data entered for "Protective" cases;

- CCRS legal, movement and adoption activities must be recorded and data entered as appropriate.

e. Plan Amendment

There are two "protective" status changes which require a plan amendment.* The first of these occurs when

A child abuse/maltreatment report is indicated for a family receiving foster care and/or preventive services.

When this occurs the plan amendment should include the following:

- a summary of the family's problems as they relate to abuse/maltreatment (however the reporting source should not be mentioned);

- a discussion of the risk to the child(ren), if (s)he remains at home or returns home, including the family's potential to harm the child(ren), the family's ability to protect the child(ren) or to prevent future harm, and the family's capacity to care for the child;

* For further information on plan amendment status changes consult the Uniform Case Record Desk Aid.

- a discussion of the family's ability to benefit from services, including barriers which may complicate or limit the family's ability to benefit from services;

- a plan review which specifies any goals, target dates or tasks which should be altered in light of the indicated report and which focuses on alleviating the conditions which led to the acts or omissions that were the basis for indicating the child abuse/maltreatment report.

The second protective status change occurs when

A case is closed on the Statewide Central Register of Child Abuse and Maltreatment.

When this occurs the plan amendment should indicate the following:

- the basis on which the case closing is made (See Case Closing IV I1-IV I3.);

- the status of the service plan at the time of the SCR closing, including a discussion of the progress of the family and child and the expected impact of the discontinuation of protective services.

In addition:

- plan amendment forms must be signed by the case planner, the case planner's supervisor, the case manager, and, if appropriate, the Child Protective Services monitor;

- while the client's signature is not mandated, caseworkers should attempt to involve the client in the assessment and planning process and to obtain the client's signature whenever possible;

- a CCRS Assessment Plan Grid (turnaround) must be completed and data entered when protective status changes occur and foster care, adoption and/or preventive services are continuing;

- CCRS legal, movement and adoption activities must be recorded and data entered as appropriate.

If there is an existing record, this history is verbally summarized for the local district. When appropriate, reports are also transmitted to the Regional Offices, Commission on Quality of Care for the Mentally Disabled, Division for Youth (DFY), Office of Mental Health (OMH), or Office of Mental Retardation and Developmental Disabilities (OMRDD). The latter three organizations are responsible for investigations of their own foster family homes. The Regional Offices share responsibility with local districts for investigating foster boarding homes and agency operated boarding homes of authorized agencies, day care centers and family day care homes. The Regional Offices have sole investigatory responsibility for reports involving child(ren) in group residential care facilities or programs which are licensed by the Department of Social Services, Division for Youth or State Education Department. Reports involving children in group residential care facilities licensed by OMH or OMRDD are investigated by the Commission on Quality of Care for the Mentally Disabled.

The intake worker has the additional responsibility of establishing and terminating primary/secondary responsibility (see VIII J1-VIII J2) and for providing the link in transferring cases from county to county (see VIII M1-VIII M3). SCR staff also provide necessary translations from Spanish.

C. EXPUNGEMENT REVIEW/FAIR HEARINGS

SS Law 422.8

Under State law, a subject of a report is permitted to challenge an indicated determination and ask that his/her record be expunged or amended. (See Requests for Expungement or Amendment X C2-X C3.) To initiate such a challenge, the subject must make a written request to the SCR within 90 days of being notified that the report is indicated. The SCR has the responsibility to review all such requests for appropriateness, that is, to determine whether it has an indicated case on record naming the person making the request as a subject. The SCR must also establish that the request was made within the 90 day time period. All case-related SCR forms are reviewed and a request for the documentation supporting the findings is sent to the local CPS. (See Requests for Information from SCR VIII P1-VIII P2.) In addition, the SCR acknowledges in writing to the subject that the request has been received.

The SCR worker carefully reviews the case file, including the local districts documentation. After this review program and legal staff meet to review the information concerning the indicated report against the legal definitions of abuse/maltreatment and definitions contained in "Definitions of Allegations Related to Child Abuse and Maltreatment". (See Appendix C.) The review which is two tiered determines the following:

- whether there is some credible evidence to find that the subject committed act(s) of child abuse or maltreatment giving rise to the indicated report; and if credible evidence exists

- whether such act(s) could be relevant and reasonably related to employment of the subject by a provider agency or the approval or disapproval of applications submitted by the subject of the report to licensing agencies.

The latter assessment is made in order to respond to requests for SSL 424-a clearances. (See Clearances V D1-V D4.)

If the reviewers find no credible evidence the SCR will expunge the record. Additionally, the SCR will notify the subject and the local district of the decision and further will direct the local district to expunge its files. Likewise, if the decision rendered is to amend the record the SCR will amend the relevant part of its record, will notify the subject and the local district of the decision and will direct the local district to amend its files.

If it is determined at the review that there is some credible evidence that the subject abused or maltreated a child, regardless of whether the act or acts of abuse or maltreatment are relevant and reasonably related to issues concerning employment of the subject or the approval or denial of the subject's application to care for children, the SCR will maintain the report.

SS Law 422.4 422.2

The SCR will continue to release information to those persons allowed access to CPS information by Social Services Law. For instance, information will be released to local districts when another oral report is received relating to the subject of the report or when a police officer, local district caseworker, SPCC worker, etc. needs information to make a decision on whether or not to take protective custody of a child. However, access will not be provided to agencies who submit clearances to the SCR pursuant to SSL 424-a if a review determined that the act(s) were not relevant and reasonably related, to employment or the approval or denial of applications submitted by the subject to agencies. (See Clearances VD2.)

If the subject of the report does not have his request granted through the above process within 90 days of making the request, (s)he may request a fair hearing. If such a request is made, the SCR worker must provide DSS legal staff with the SCR record and expungement review notes. Furthermore, prior to the hearing, the SCR worker is responsible for informing the local CPS of any outstanding evidenciary needs. (See Requests for Information from SCR VIII P1-VIII P2.)

The SCR worker is obligated to testify at the fair hearing as to:

- general SCR practices and procedures and
- specific questions regarding maintenance of the case prior to the hearing.

The SCR worker also:

- serves as a reference for any party at the hearing regarding policy, procedure, State regulation, or the law as it relates to child protective services.

SS Law 422.8

The determination criteria of a fair hearing are similar to the SCR expungement review criteria. The hearing determines whether there is some credible evidence that the subject committed the act or acts of child abuse or maltreatment giving rise to the indicated report and whether such act(s) could be relevant and reasonably related to the employment of the subject of the

report or the approval or disapproval of applications submitted by the subject to care for children. The SCR provides written communication to the subject of the report and the local district after the fair hearing process and decision and ensures that records are appropriately adjusted. It should be noted that when a fair hearing decision is rendered to expunge or amend a case record at the SCR, the local district will be directed by the SCR to take similar action. Should the fair hearing decision be challenged by a subject, that challenge takes place at the local county's Supreme Court through an Article 78 proceeding.

D. CLEARANCES

Another function of the SCR is to handle inquiries as to whether a person is the subject of an indicated report of child abuse and maltreatment on file in the SCR.

SS Law 424-a

Clearance must be requested by provider agencies (i.e.) authorized agencies, Division for Youth, juvenile detention facilities (certified by DFY), runaway and homeless youth programs (Article 19-H/certified by DFY) and licensed day care centers including Head Start. These provider agencies are required to screen persons in the following positions who have or will have the potential for regular and substantial contact with children cared for by the agency:

- persons actively being considered for employment
- persons employed by an individual, corporation, partnership or association which provides goods or services to such agency.

These provider agencies are permitted to screen persons in the following positions who have or will have the potential for regular and substantial contact with children who are cared for by the agency:

- persons currently employed
- persons to be hired as consultants
- persons who have volunteered their services.

Additionally, licensing agencies (i.e.) authorized agencies, state or local governmental agencies, Division for Youth are required to screen

- applicants to be foster parents and relative foster parents
- applicants to provide day care services in a day care center, family day care home or group family day care home
- persons over the age of eighteen who reside in the home of a person who has applied to become a foster parent or to operate a family day care home
- applicants to be adoptive parents

- directors of overnight summer camps, summer day camps and traveling summer day camps.

Within 10 working days of the receipt of the inquiry the SCR worker screens each inquiry against the information contained in the SCR database in order to determine whether the person being screened is the subject of an indicated report of child abuse and maltreatment.

In situations where no matches are found concerning the person about whom the clearance inquiry is made with any subject of a report on file in the SCR, the inquiring agency is notified there is no record.

SS Law 424-a

In those cases where the person being screened is found to be the subject of an indicated report, further review of records, including local districts records, is conducted in order for the SCR to make the following determinations:

- whether there is some credible evidence to find that the subject committed the act or acts of child abuse or maltreatment giving rise to the indicated report; and

- whether such act or acts could be relevant and reasonably related to employment of the subject of the report by a provider agency or relevant and reasonably related to the approval or disapproval of an application submitted by the subject of the report to a licensing agency.

The local district must supply the requested documentation within twenty working days of the Department's request. (See Request for Information from SCR VIII Pl.)

The SCR, after conducting this review within fifteen working days of the receipt of the records from the local district, notifies the inquiring agency that the person about whom the clearance is made <u>is not</u> the subject of an indicated report when the review determines:

- no credible evidence exists; or

- there is some credible evidence, and further review determines that the act(s) committed by the subject of the report are <u>not</u> relevant and reasonably related to employment by a provider agency or approval or disapproval of application by a licensing agency.

The SCR, after conducting the further review of records, notifies the inquiring agency that the person about whom the clearance is made <u>is</u> the subject of an indicated report when the review determines:

- there is some credible evidence AND
- that the act(s) are relevant and reasonably related to employment by a provider agency or approval or disapproval of applications by a licensing agency.

SS Law 422.4

The SCR when notifying the inquiring agency that the person about whom the clearance is made is the subject of an indicated report does not provide the content of the report. However, the provider or licensing agency may wish to obtain copies of SCR reports in order to make hiring or approval decisions. The agency must obtain authorization for release of the reports from the applicant or employee and submit this release to the SCR. Upon receiving a properly authorized release the SCR will send pertinent records to the agency making the request. The provider or licensing agency evaluates the reports by using the guidelines developed by the Department.* These guidelines contain information regarding how to evaluate SCR reports and factors to consider in assessing an applicant's or employee's risk to children.

SS Law 424-a

SS Law 424-a

When the agency decides to deny the application or to deny employment based in whole or in part on the indicated report, then it must supply the person a statement setting forth the reasons for the denial. A person who is denied on the basis of being the subject of a report may request a fair hearing within 90 days of having received the notice of denial or other negative decision. If such a request is made, the SCR worker assists in the hearing preparation and participates at the hearing. (See Expungement Review/Fair Hearings V C2.) For this type of hearing the sole question that will be considered is whether it may be shown by a fair preponderance of the evidence that the person who is the subject of the report committed the act or acts which gave rise to the indicated report.

If the result of such a hearing is that the person who is the subject of the report is shown by a fair preponderance of the evidence to have committed the act or acts which are the basis of the indicated report, no further notice will be sent to the district, agency or center and no further action by the district, agency or center relating to the review and evaluation pursuant to Section 424-a will be required. The subject of the report will receive a notice of the fair hearing decision.

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*Guidelines: "Evaluating Applicants/Employees Who Are the Subject of Indicated Reports or Child Abuse and Maltreatment" - Released by the Department on 1/22/86.

The fair hearing may result, however, in a finding that the Department has not shown by a fair preponderance of the evidence that the person committed the act or acts which gave rise to the indicated report. In such a case, the SCR will be instructed, as part of the fair hearing decision, to inform the district, agency or center which made the inquiry and which made the denial or other negative decision that, as a result of such hearing, the district, agency or center should reconsider its denial or decision. Additionally should any future clearance requests for such person be initiated, the SCR will notify the inquiring agency that the person about whom the clearance is made is not the subject of a report.

C. CHILD PROTECTIVE INVESTIGATIONS

State Regional Offices depending upon the nature of the setting in which the child abuse and maltreatment is reported to have occurred are authorized to either participate with the local district in child protective investigations or are authorized to solely conduct the child protective investigation. When the Regional Offices' role is participatory, their duties and procedures vary depending on whether the day care center, foster family home or family day care home is licensed by the State (Type I), or is certified or operated by the local department (Type II). The Regional Office is solely responsible when the report involves a group residential care facility licensed or certified by the Department, DFY, or State Education Department (Type III).

Type I - For those child protective reports involving children who reside in or attend State Department of Social Services-licensed or -certified day care centers, day care homes or foster homes licensed by voluntary agencies, the State Regional Office plays a contributory role in the investigation, maintaining on-going contact and a cooperative relationship with the local CPS. (See Out-of-Home Settings IV G1-IV G5.) The Regional Office is notified of a report concerning a child in a facility under their jurisdiction by the SCR. As the responsible licensor of these facilities, the Regional Office's role in the investigation is to ensure that the programs or staffing problems which result in the abuse and maltreatment of a child within the facility are remedied to prevent further occurrences. These procedures also apply to day care facilities licensed by the New York City Department of Health and family day care homes certified by an authorized agency other than a local social services district. The local CPS has the sole responsibility for conducting the investigation and making a determination.

Type II - Although Social Services Law authorizes the local CPS to conduct investigations of child abuse or maltreatment reports in its district, federal regulations mandate that an independent child protective investigation is required where there are reports of suspected abuse or maltreatment which are alleged to have occurred in foster homes or family day care homes certified or operated by local social services districts. In order to meet both the federal and State mandates and to ensure adequate, impartial, and objective investigations, the State Regional Office in conjunction with the local child protective service conducts investigations of those child protective reports involving children who reside in or attend local social services district-certified or -operated foster homes, or family day care homes. (See Out-of-Home Settings IV G1-IV G5.)

SS Law
424-b
423.1
Public Law
93-247

The Regional Office is notified by the SCR of any report concerning a child in a facility certified or operated by the local social services district. Regional Office staff then contacts the local CPS to discuss the known facts as they relate to the conduct of their respective investigations. The Regional Office and local CPS representatives responsible for the investigation should agree on how contacts will be made with the subjects of the report and others at the facility. The Regional Office must submit an independent report of the preliminary investigation (DSS-2222) within seven days to the SCR. Although maintaining contact and acting cooperatively with the local CPS, the Regional Office must make an independent determination of indicated or unfounded, based on the results of its own investigation. This determination must be submitted to the SCR within 90 days of the date of the report.

When determination decisions reached by the Regional Office staff member and the local CPS caseworker do not coincide, supervisory staff of both agencies should attempt to reach a joint agreement. If no agreement on a determination can be reached, the different determinations are reviewed by the appropriate monitoring staff of the SCR, who offer assistance in resolving the disagreement. In the event that a satisfactory resolution cannot be achieved through this means, the matter is decided jointly by the Director of the Bureau of State Operations (SCR) and the Director of the appropriate Regional Office.

In both Type I and Type II investigations, the Regional Office may remain involved in planning and carrying out corrective action after the determination is made. Regardless of the determination, if the Regional Office finds violations of any State regulations it may take appropriate corrective action.

This may include closing a day care center, limiting additional placements at a home or center, providing additional training, requiring additional staff, and so forth.

SS Law 422.11(a)

Type III - For those child protective reports involving children who reside in or attend State Department of Social Services licensed institutions and group homes, or reside in or attend facilities which are operated, licensed, approved or visited by the Division for Youth or State Education Department, the Regional Offices of the New York State Department of Social Services have sole responsibility for the investigation. Furthermore, the Regional Office plays a major role in the development, approval, implementation and monitoring of corrective action plans for facilities licensed by the State Department of Social Services.

1. **Investigations (Type III)**

Regional Office procedures for conducting an investigation in a residential care facility are by and large similar to all other investigation requirements. (See Initiation of Investigation IV D1-IV D2 and Out of Home Settings IV G2-IV G3.) One of these requirements is to evaluate the need for protective removal. Although the necessity of removing a child from a congregate care facility is perceived as a rare occurrance because of the several other protective measures that may better serve the situation, if it is determined that removal of the child is necessary, the Regional Office will notify the local district with custody of the child of the situation and will request that the local department take action to remove the child from the residential setting.

However, there may be situations where the Regional Office may request the local department in which the residential facility is located to remove the child. This would occur when immediate action to remove the child is warranted, but due to the geographic distance between the local district with custody and the residential facility the custodial district is unable to respond quickly enough to remove the child.

SS Law 422.11(a)

The Regional Office, in addition to fulfilling existing notification requirements (see Notifications IX B1) and after seeing to the safety of the child(ren), is required to notify the director or operator of a residential facility or program and, as appropriate, notify the Division for Youth, Department of Education, local social services or school district placing the child of the existence of the report.

2. **Determination (Type III)**

As with all reports, upon completion of the investigation, the Regional Office investigator must determine within 90 days from receipt of report whether a report is indicated or unfounded. (See Determinations IV E1-IV E2).

This includes:

- determining whether some credible evidence of abuse or maltreatment exists relative to the definitions of abused child in residential care or neglected child in residential care (see Appendix B)

- completing and transmitting DSS-2223 to the SCR within 90 days.

In addition, depending upon the outcome of a Type III investigation there are varying requirements for notification of the determination.

For indicated reports the following individuals and agencies (as applicable) will receive notice:

SS Law 422.10

- subject of report;
- other person named in report;
- child's parent/guardian;
- director or operator of the facility;
- local department of social services or school district placing the child;
- Division for Youth or Department of Education;
- any involved law guardian.

For unfounded reports, the following individuals and agencies (as applicable) will be notified:

SS Law 422.9

- subject of report;
- other persons named in the report;
- child's parent/guardian;
- department commissioner (Regional Office);
- Division for Youth or Department of Education;
- local social service commissioners or school district placing the child;
- any involved law guardian;
- director or operator of a residential care facility or program.

3. **Corrective Action (Type III)**

Type III investigations and procedures contain specific requirements for the development, implementation and monitoring of corrective action plans to remediate and prevent future abuse and maltreatment in residential care facilities.

Depending upon whether the substantiated abuse and maltreatment resulted from individual incident, agency non-compliance, or severe or repeated abuse the following actions are required:

(a) Individual Incident

SS Law 460-c 2-a

The facility will have 10 days after receipt of the notice of indication to develop and implement a written plan of action to be taken with respect to the individual employee or volunteer. For DSS licensed facilities the Regional Office will approve or disapprove and specify necessary revisions to the submitted plans, and then be responsible for monitoring the plans for implementation. Similarily, other State licensing agencies under Type III jurisdiction (DFY, SED) have responsibilities for approval and monitoring of individual incident corrective action plans.

(b) Non Compliance

When the investigation determines that the abuse or maltreatment may be attributed in whole or in part to the facility's or program's non-compliance with the provisions of the Child Abuse Prevention Act of 1985 (Chapter 676) or non-compliance with regulations of the State Licensing Agency (DSS, DFY, SED) the facility or program must develop a corrective action plan. The developed plan of prevention and remediation needs to address, at a minimum, those areas which have been found to be in non-compliance, the manner in which the facility will come into compliance and include the anticipated completion date of such plan. The director or operator of a DSS licensed facility or program, after receiving the indication notice, is to consult with Regional Office licensing staff and child protective staff regarding the development of the plan. This contact may be made in person or by telephone. After consultation with the Regional Office the director or operator of the facility or program is to submit the written action plan of prevention and remediation, which addresses the areas found to be in non-compliance. The action plan must address how the facility will come into compliance and include the anticipated completion date of such plan. Regional Office staff are then responsible for approving submitted plans and monitoring their implementation.

SS Law 460-c(2)(b)

(c) Severe or Repeated Abuse

When an indicated report reflects incidents of severe or repeated abuse at the residential facility or program, the Department will recommend to local departments of social services that certify group homes, the Division for Youth and the State Education Department, that appropriate preventive, remedial and legal action, consistent with any applicable collective bargaining agreement(s), be taken with respect to the residential facility and/or the alleged perpetrator.

SS Law 422.11(a)

VII. REPORTERS

A. MANDATED REPORTERS

SS Law 413

Mandated reporters are those individuals who must report, or cause a report to be made, whenever they have reasonable cause to suspect that a child coming before them in their professional or official capacity is abused or maltreated, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian or custodian or the person legally responsible for the child comes before them in their professional or official capacity and states from personal knowledge, facts, conditions, or circumstances which, if correct, would render the child an abused or maltreated child. Those mandated to report are:

- Physicians
- Surgeons
- Medical Examiners
- Coroners
- Dentists
- Osteopaths
- Optometrists
- Chiropractors
- Podiatrists
- Social Service Workers
- Child Care Workers
- Peace Officers
- School Officials
- Volunteer in Residential Care Facility
- Residents
- Interns
- Registered Nurses
- Hospital Personnel engaged in admission, examination, care or treatment
- Christian Science Practitioners
- Day Care Center Workers
- Foster Care Workers
- Mental Health Professionals
- Psychologists
- Police Officers
- Other Law Enforcement Officials
- District Attorney or Assistant District Attorney
- Investigator Employed in the Office of District Attorney

Whenever a mandated reporter is acting in his/her capacity as a staff member of a medical or other public or private institution, school, facility or agency, the reporter should immediately notify the person in charge or his/her designee. That person then also becomes responsible for reporting or causing a report to be made to the SCR. The law however, does not require more than one report from any institution, school, facility or agency on any one incident of abuse or maltreatment.

It is recommended that the local child protective service encourage the use of a specific liaison person within each of the various school districts, hospitals and other agencies in its county. This person would be designated to make

reports to the SCR. Other agency staff members should be instructed to apprise the liaison person of suspected child abuse/maltreatment situations, and the liaison would then make the report to the SCR. Designating a staff member to coordinate required reporting to the State Central Register is mandatory for all hospitals in the State.

10 NYCRR 405.34(c)

SS Law 415
18 NYCRR 432.3(c)(1)

Mandated reporters must immediately report suspected child abuse or maltreatment by telephone to the State Central Register (or to the local child protective service in Onondaga and Monroe Counties). Within 48 hours of making the oral report, the mandated reporter is required to provide a signed, written report to the local child protective service. The local CPS is obligated to provide mandated reporters with form DSS 2221-A for this purpose. If the mandated reporter does not submit this written report, the local CPS should attempt to obtain it by advising the mandated reporter of this legal obligation.

E. PROTECTIVE CUSTODY

SS Law 417 FCA 1024

Certain mandated reporters shall take all appropriate measures to protect a child's life and health including, when appropriate, taking protective custody of a child if such mandated reporter has reasonable cause to believe that the circumstances and condition of the child are such that continuing in his residence or in the care and custody of the parent legally responsible for the child's care presents an imminent danger to the child's life or health. Those persons holding this right and responsibility are:

- peace officers
- police officers
- law enforcement officials
- agents of a Society for the Prevention of Cruelty to Children
- child protective caseworkers of a city or county department of social services
- persons in charge of a hospital

When any of the above persons take protective custody of a child, they are required to follow the procedures for mandated reporting. Each reporter must also contact the local child protective services and bring the child to a place approved by the local social services department unless the child is hospitalized or in need of hospitalization. The local CPS is responsible for filing a Family Court petition were non-CPS persons have taken the child into protective custody. (See Removal without Consent - Protective Custody IV J2-IV J3 and Evaluation of Need for Protective Removal IV D5-IV D7.)

1. Doctors/Hospitals

SS Law 417 FCA 1024 PHL 2801

The law provides special rights and responsibilities for doctors employed by a hospital or similar institution and persons in charge of hospitals regarding temporary custody of children suspected of being abused or maltreated. A "similar institution" is a facility or institution engaged principally in providing services by or under the supervision of a physician for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition. A "similar institution" includes, but is not limited to, a public health center, diagnostic center, treatment center, dental clinic, rehabilitation center other than a facility used solely for vocational rehabilitation, maternity hospital or out-patient department of such institution.

SS Law 417 FCA 1024

The law relieves all other physicians (i.e., private practice) of the authority to take protective custody of children who they are treating. A private physician is required to notify the appropriate police authorities or child protective services to take protective custody of a child if the physician has reasonable cause to believe that the circumstances or condition of the child are such that continuing in his place of residence or in the care and custody of the parent, guardian, custodian or other person responsible for the child's care presents an imminent danger to the child. When such a situation occurs, whomever is notified by the physician (i.e., child protective services, police) should also, under the authority of SSL 417 evaluate the child's circumstances or conditions to determine what the appropriate action should be, keeping in mind the fact that a physician has already found imminent danger.

FCA 1024 (d),(e)

The hospital employed physician treating a child may keep the child in his/her custody without the consent of the child's parent, guardian, or other person legally responsible for the child's care, whether or not additional treatment is needed, if circumstances or the condition of the child is such that continuing in his place of residence or in the care and custody of the parent, guardian, or other person legally responsible for the child's care presents an imminent danger to the child's life or health. When a doctor retains custody of a child in his capacity as a member of the staff of a hospital or similar institution under the above conditions, (s)he must notify the designated person in charge, (i.e., hospital administrator) and that person then becomes responsible for the further care of the child. If the local social services district receives custody from the hospital administrator, the parent or other person responsible for the child's care must be notified immediately (see Notifications IX E1-IX E2), as must the Family Court. The hospital administrator must also follow the same reporting procedures as a mandated reporter. (See Mandated Reporters VII A1-VII A2.)

Where the hospital administrator has reasonable cause to believe that the circumstances and conditions of the child are such that continuing in his place of residence or in the care and custody of the parent, guardian, custodian or other person responsible for the child, are presenting imminent danger to the child's life and health, he/she must take all necessary measures necessary to protect the child. The hospital administrator may, where appropriate as one of these steps, retain custody of a child. The custody may be kept whether or not additional medical treatment is required and whether or not a parent or guardian has asked for the return of the child. Whenever a hospital administrator makes the decision to retain a child in protective custody, the child's parents or guardians must be informed and an oral report to the SCR must be made immediately, explicitly stating that the hospital is taking protective custody and the reasons for that action. In all cases the local child

protective services must immediately commence an investigation. If during this stage of the investigation the child no longer needs hospital care, child protective services must take all necessary steps to protect the child, including when appropriate, taking custody of a child. If the local social service district receives custody in this way the parent or other persons responsible for the child's care must be notified immediately (see Notifications IX E1-IX E2), as must the family court.

SS Law 417

The local CPS is then obliged to file a petition in Family Court at the regular weekday session or, if appropriate, the local CPS may recommend to the court that the child be returned home. (See Removal Without Consent - Protective Custody IV J2-IV J3.)

SS Law 413
SS Law 415
FCA 1046

Because Social Services Law mandates reporting by medical personnel, the restriction of the confidentiality of medical records/information is not applied in reports of child abuse and maltreatment. That is, any medical information the doctor obtains to support the allegations of abuse/maltreatment he/she is reporting may be made a part of the child protective report. Such information is not subject to physician-patient privilege when introduced at Article 10 proceedings. (See Confidentiality and the Source of the Report X B10.)

P. REQUESTS FOR INFORMATION FROM SCR

SS Law 425
422.8
18 NYCRR 432.3(c)(5)

The local CPS is required to respond to all special requests for information made by the SCR. Four circumstances which always initiate such a request are: a subject's request for an expungement review, identification of a subject when a clearance pursuant to SSL 424-a is conducted, a subject's request for a fair hearing and a fatality report. (See Expungement Review/Fair Hearings V C1-V C2 and Clearances V D1-V D4.))

1. Expungement Review

SS Law 422.7
SS Law 422.4
SS Law 422.8(b)1
424-a

The SCR will ask in writing for all records, reports and other information maintained by the local district pertaining to the indicated report from the local CPS immediately upon receiving a subject's request for expungement or upon determining that a person about whom a clearance is conducted is the subject of the report. The local district is required to respond to the SCR's request within 20 working days of receiving the request for all case information. The local district in responding to the request for all the case information should carefully review data concerning the person who made the report or persons who cooperated in the investigation. The purpose of this review is to determine whether disclosure of this information would be detrimental to the safety or interests of such persons. Documents which are identified as such should be labeled before submission to the SCR. This is to enable the SCR to keep such information confidential should the subject make a request for all documents in the possession of the SCR. Otherwise, the SCR is required to furnish all the documents in its possession at the time of the request. The SCR must complete its review of records and respond to the subject of the report or to the inquiring agency which submitted the clearance within 15 working days of the receipt of the records from the local district.

The documentation sent to the SCR must include:

- case narrative - sections of the case record that contain details of conversations with the source of the report, subject(s) of the report and other persons named in the report including children, medical persons, school staff, or other collateral contacts; first-hand accounts of incidents; descriptions of child(ren)'s injuries; and the basis for the determination of "indicated";

- agency records or reports - any information gathered from outside agencies or other units within a local district which have had substantial contact with the family and/or child;

- medical reports - letters from doctors, hospital or clinical records;

- school reports or records - statements from school personnel, attendance records, academic progress reports;
- psychological/psychiatric reports - evaluation and test results;
- photographs/x-ray reports - original photographs should not be sent; instead, provide a detailed description of what can be seen in the photos or a photo copy of the photographs; x-rays should not be sent, rather x-ray reports;
- affidavits - signed statements made by anyone who has direct knowledge relating to the incident(s) or the family situation;
- law enforcement reports - police reports, probation reports;
- court petitions and court orders.

2. **Fair Hearing**

Where a rquest for expungement is denied and a subject has requested a hearing, the NYSDSS Bureau of Administrative Procedures will notify the local district that a fair hearing has been scheduled. Within one week of receiving the notice, the local district should contact the Expungement Review Unit worker responsible for the case and supply the name of the local agency attorney handling the case, obtain the name of the State attorney and discuss evidence that will be necessary at the hearing. Two weeks prior to the fair hearing the local district should discuss with the Expungement Review Unit worker any concerns related to the merits of the case or evidentiary problems that have arisen during meetings between local legal staff and local CPS staff.

Adhering to these time-frames is important. The NYSDSS Bureau of Administrative Procedures will not grant an adjournment unless such a request is received at least five working days prior to the scheduled hearing.

H. Other Reports of Abuse/Maltreatment

SS Law 424.4 424.5 18 NYCRR 432.2(e)(3)(vii) 432.3(g)

The district attorney or any SPCC may receive a copy of any or all reports if a prior written request is made to the local child protective service. Local CPS must provide copies of these reports when requested to do so. Local districts are also required to provide telephone notice to district attorneys of any and all reports of child abuse and maltreatment if the district attorney requests, in writing, such notice. (See Using the Criminal Justice System IV D 11.) The written request must specify the kinds of allegations as specified on the DSS-2221 that the District Attorney wishes to receive telephone notice and/or copies. For example, a district attorney may request in writing to receive written copies of all child sexual abuse and allegations related to physical abuse and telephone notice of child sexual abuse only.

I. Expungement and Amendment

SS Law 422.6

Subjects of a report must be notified any time a record is amended or expunged. This is accomplished by:

- the SCR computer-generated unfounded letter explaining expungement (See Appendix A7)
- the SCR notice of the decision to expunge or amend when a subject has requested expungement or amendment.

SS Law 422.9 18 NYCRR 432.9(c)(2)

Other individuals must be informed, as well. "The district shall inform, for the same purpose any other individual, unit, organization or agency which received such report or any information relating thereto." (See Expungement of Unfounded Reports X C2, Appendix A10 and Determinations IV E2.)

A6), as well. Clients should be told that a uniform case record is kept. For CPS clients this means progress notes for all indicated cases and both progress notes and assessment and service plans on all indicated cases which are open for services. All children who are named in indicated reports of child abuse or maltreatment who are receiving or who have received services as a result of being named in such reports are tracked in the Child Care Review Service (CCRS), a statewide computer system containing service plan information and legal, movement, and adoption activities. The child, his/her parent, guardian, attorney, or next of kin may review CCRS individual identifying information by filing a request directly with the State director of CCRS.

B. ACCESS TO INFORMATION (CPS)

SS Law 422.4(A) 18NYCRR 432.7

CPS information includes all reports of child abuse and maltreatment including the initial oral report, preliminary report of investigation, determination report, and any follow-up report(s) as well as any other information obtained, reports written or photographs taken concerning those reports in the possession of the department or local departments. The law explicitly lists those persons or entities allowed access to CPS information and the circumstances in which access is permitted.

1. General Access to CPS Information

Individuals and organizations given access to CPS information include:

SS Law 422.4(A)

- a physician who has before him a child whom he reasonably suspects may be abused or maltreated;
- a peace officer, law enforcement official, SPCC worker, or local district caseworker who has before him a child whom he reasonably suspects may be abused or maltreated and who needs this information in order to make a decision whether to place the child in protective custody;

SS Law 371.10

- an authorized agency responsible for the care or supervision of a child who is reported to the SCR;
- any subject of a report;
- other persons named in a report;
- a court or grand jury upon a finding that the information is necessary for the determination of an issue before the court or grand jury;
- state legislative committees responsible for child protective legislation;
- the State Commission on Quality of Care for the Mentally Disabled in connection with an investigation being conducted by the commission;
- a probation service conducting an investigation relating to a custody or habeas corpus proceeding where there is reason to suspect the child or the child's sibling may have been abused or

maltreated and such child or sibling, parent, guardian or other person legally responsible for the child is a person named in an indicated report of child abuse or maltreatment and such information is necessary to make a determination or recommendation to the court;

- persons engaged in bona fide research (no case identifying data released unless essential and Department gives prior approval);

- a district attorney, an assistant district attorney, or an investigator employed in the district attorney's office when the district attorney certifies that the records, reports and other information are necessary in order to conduct a criminal investigation of the subject of the report or to prosecute the subject of the report and that such investigation or prosecution is reasonably related to the allegations contained in the report;

- a sworn officer of the State Police or New York City police department when the officer certifies the records and reports are necessary to conduct a criminal investigation of the subject of a report and the investigation is reasonably related to the allegations contained in the report;

- a sworn officer of a city police department, other than the New York City police department, or of a county, town, or village police department or county sheriff's department, when such officer is participating in an investigation of the subject of the report, such investigation is reasonably related to the allegations contained in the report and the social services district to which the request for information is made has indicated in its Consolidated Service Plan that such officer is entitled to such information;

- the New York City Department of Investigation, provided however, that no information identifying the subjects of the report or other persons named in the report shall be made available to the department of investigation unless such information is essential to an investigation within the legal authority of the department of investigation and the State Department of Social Services gives prior approval;

- a provider or coordinator of services to which CPS or LDSS has referred a reported child, when necessary to enable the provider or coordinator to establish/implement a service plan;

- provider agencies and licensing agencies responsible for obtaining clearances from the SCR of certain individuals identified in Section 424-a of the Social Services Law. (The only information released is whether the person is or has been the subject of an indicated report).

- chief executive officers of authorized agencies, directors of day care centers and directors of facilities operated or supervised by the Department of Education, the Division for Youth, the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities in connection with a disciplinary, administrative or judicial proceeding instituted by any such officers or directors against an employee of such agency, center or facility who is the subject of an indicated report when the incident of abuse or maltreatment contained in the report occurred in the agency, center, facility, or program, and the purpose of such proceeding is to determine whether the employee should be retained or discharged.

The law also gives such agency executives, day care directors, directors of facilities operated or supervised by the State Education Department, Division for Youth, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities referenced in the preceeding section access to CPS information not otherwise provided concerning the subject of an indicated report where the commission of an act or acts by the subject has been determined in an article ten proceeding of the Family Court Act to constitute abuse or neglect.

After a child who has been reported to the SCR reaches eighteen years of age, access to CPS information contained in his or her record shall be permitted to a physician, peace officer, law enforcement official, an SPCC worker, or local district caseworker and even then, only if a sibling or offspring of such a child is before one of those persons and is a suspected victim of abuse or maltreatment.

In addition to making SCR reports available to the above named persons, a summary of the findings of and action taken by, the child protective service in response to a report must be made available to physicians, persons in charge of institutions, schools, facilities, or agencies. This information is made available only if the physician or the person who made the report at the institution, school, facility or agency requests it and their identify can be confirmed. The request is made in writing to the local CPS who must provide this summary, a copy of which should be made available to the SCR. The summary may be released if the report is under investigation or has been indicated. The status (under investigation or indicated) must be stated.

2. **Redisclosure of CPS Information**

SS Law 422.10

Identifying information contained in SCR reports may not be divulged by those given access, except by the subject of the report or other persons named in the report. The law states "...any person who willfully permits and any person who encourages the release of any data and information contained in the local or statewide register to person or agencies not permitted shall be guilty of a class A misdemeanor".

However, the law does permit the redisclosure of CPS information in certain instances in the following situations; a) Redisclosure between service providers, b) Redisclosure by Agency Executives, and c) Redisclosure by law enforcement officials, and d) Redisclosure by consent of subject or other person named in the report.

a. Redisclosure Between Service Providers.

The law permits a provider or coordinator of services to redisclose CPS information including records, reports, or other information to other persons or agencies providing services to the child or family only if the local district has a written agreement which is identified in the Consolidated Services Plan, with the provider or coordinator of services which includes specific agencies and categories of individuals to whom redisclosure by the provider or service coordinator is authorized. Such written agreement may be a component of a purchase of service contract. Individuals in this agreement should be identified by profession and agencies by type. Ongoing exchange of CPS information by persons or agencies given access in order to facilitate the provision or coordination of service is also permitted. Redisclosure of CPS information to unauthorized individuals or agencies is prohibited.

b. Redisclosure by Agency Executives, Day Care Center Directors.

The law permits redisclosure of CPS information by agency executives, day care center directors, directors of facilities operated or supervised by the State Education Department, Division For Youth, Office of Mental Health, and the Office of Mental Retardation and Developmental Disabilities, if the purpose is to initiate or present evidence in a disciplinary, administrative, or judicial action against an employee who is the subject of an indicated CPS report which took place in the agency, center or facility. The intent is to allow redisclosure of CPS information by agency directors etc. for the purpose of initiating a case to terminate an employee or to change the terms of employment of an employee and not, for example, to initiate criminal proceedings against an employee.

c. Redisclosure by District Attorney or other Law Enforcement Officials.

The law also permits redisclosure by a District Attorney or other law enforcement official in connection with the investigation or prosecution of the subject of the report for a crime alleged to have been committed against another person named in the report and also to initiate court action against the subject.

d. Redisclosure by the Subject of the Report or Other Person Named in the Report.

The law gives blanket authority for a subject or other person named in the report to redisclose at that person's pleasure.

3. **Obtaining access to CPS information.**

Requests for access to CPS information by those given access can be directed to either the local department of social services or the State Central Register with the following exceptions:

a. Requests Directed to SCR

Requests by individual organizations cited below must be directed to SCR.

SS Law 424-a

- any subject of a report or other persons named in the report
  - Requests for access by these individuals should first be directed to the SCR. However, requests for additional CPS related information not available through the SCR may be directed to the local district.
- Agencies responsible for obtaining clearances pursuant to SSL 424-a must direct requests to the SCR.
- NYC Department of Investigation (SDSS approval for identifying information to be released).

SS Law 422.10

- chief executive officers of authorized agencies, directors of facilities operated or supervised by the State Education Department, Division for Youth, Office of Mental Health, and Office of Mental Retardation and Developmental Disabilities who have access to an indicated report when the incident took place in their agency or facility.
  - Requests for access to CPS information concerning the subject of an indicated report where the commission of