

**CHAPTER 129**

**CHILD PROTECTION INVESTIGATIONS**

**Authority**

N.J.S.A. 9:6-8.15, 9:6-8.36a, 9:6-8.106, 30:1-12 and 30:4C-4(h).

**Source and Effective Date**

R.2005 d.441, effective November 18, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

**Chapter Expiration Date**

Chapter 129, Child Protection Investigations, expires on November 18, 2010.

**Chapter Historical Note**

Chapter 129, Child Abuse and Neglect Cases, was adopted as R.1979 d.400, effective October 11, 1979. See: 11 N.J.R. 74(a), 11 N.J.R. 559(b).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.1984 d.489, effective October 1, 1984. See: 16 N.J.R. 2224(a), 16 N.J.R. 3033(a).

Subchapter 2, Child Abuse Prevention and Treatment Act of 1974 Requirements, was adopted as R.1985 d.373, effective July 15, 1985. See: 17 N.J.R. 885(a), 17 N.J.R. 1766(b).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.1990 d.389, effective July 13, 1990. See: 22 N.J.R. 1535(a), 22 N.J.R. 2320(a).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.1995 d.362, effective June 12, 1995. See: 27 N.J.R. 1125(a), 27 N.J.R. 2616(c).

Subchapter 2, Child Abuse Prevention and Treatment Act Requirements, was repealed by R.1999 d.238, effective August 2, 1999. See: 30 N.J.R. 3912(a), 31 N.J.R. 2211(a).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.2000 d.253, effective May 23, 2000. See: 32 N.J.R. 439(a), 32 N.J.R. 2241(a).

Chapter 129, Child Abuse and Neglect Cases, was renamed, Child Protection Investigations, and readopted by R.2005 d.441, effective November 18, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 1, Policy Concerning the Referral and Investigation of Child Abuse and Neglect Cases was renamed General Provisions; Subchapter 2, Child Protection Investigation Process, Subchapter 4, Services and Removal During Investigation, Subchapter 5, Findings and Documentation, and Subchapter 6, Expunctions, were adopted as new rules by R.2005 d.441, effective December 19, 2005. See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

**Cross References**

See N.J.A.C. 10:91-5.9, Blind and visually impaired services suspected child abuse or neglect reporting.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**10:129-1.1 Purpose and objectives**

(a) The purpose of this chapter is to:

1. Describe how the Department conducts a child protection investigation;
2. Explain the requirements of a child protective investigator in performing both an initial and a formal investigation; and
3. Explain what an alleged child victim, caregiver, or parent or guardian may expect during the course of a child protection investigation.

(b) The objectives of this chapter are to:

1. Define when an investigation is required;
2. Identify each allegation of abuse or neglect that constitutes a report;
3. Establish the time frame for initiating an investigation;
4. Identify the evidence needed to support a finding;
5. Define the requirements for an initial investigation, including safety assessment and risk assessment;
6. Define the requirements for starting and completing a formal investigation;
7. Define Department actions permitted in performing investigations;
8. Define each circumstance requiring referral of a report to a medical or other professional, law enforcement officer or prosecutor for specialized assessment;
9. Set forth guidelines by which Division caseworkers may easily identify cases that must be referred to prosecutors;
10. Establish procedures for such referrals to prosecutors;
11. Establish a system through which a Department caseworker may assist prosecutors in determining which cases should be investigated for criminal prosecution and in identifying cases in which criminal investigation or prosecution would be detrimental to the child's best interests;
12. Establish a framework for liaison and improved communication and cooperation between the Department's local offices and the prosecutors' offices in order to further the mutual goals of protecting the child and proper law enforcement;
13. Identify the requirements for accessing law enforcement assistance;
14. Establish a requirement for providing services to an alleged child victim or his or her family members;
15. Identify the standards for removing an alleged child victim from his or her home;
16. Specify standards for documentation and notification of an investigation finding as well as other notification given at the end of an investigation; and
17. Specify standards for the expunction of a record.

Amended by R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R.5004(b).  
Rewrote the section.

#### Case Notes

Close working relationship between the Division of Youth and Family Services and county prosecutor's office made DYFS caseworker "law enforcement officer," for purposes of Miranda when conducting

custodial interview of defendant charged with sexually assaulting his daughters. State v. Helewa, 223 N.J.Super. 40, 537 A.2d 1328 (A.D.1988).

#### 10:129-1.2 Scope

(a) The provisions of this chapter apply to the following persons involved in a child protection investigation:

1. Each child and his or her family;
2. Each child at risk of abuse or neglect;
3. Each parent or guardian of such a child;
4. Each caregiver, including a temporary or an institutional caregiver;
5. Each person named as an alleged perpetrator of abuse or neglect;
6. Each reporter;
7. The Public Defender when acting as the Department's agent; and
8. Each Department representative.

New Rule, R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Former N.J.A.C. 10:129-1.2, General policy, was recodified as N.J.A.C. 10:129-1.4.

#### 10:129-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Abused" or "neglected child" means a child:

1. Less than 18 years of age:
  - i. Whose parent or guardian inflicts, or allows to be inflicted upon such child, physical injury by other than accidental means, which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;
  - ii. Whose parent or guardian creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ;
  - iii. Whose parent or guardian commits or allows to be committed an act of sexual abuse against the child;
  - iv. Whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his or her parent or guardian to exercise a minimum degree of care;

(1) In supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so, or though offered financial or other reasonable means to do so; or

(2) In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court;

v. Who has been willfully abandoned by his or her parent or guardian;

vi. Upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself or herself, others or property; or

vii. Who is in an institution other than a day school, and:

(1) Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being; or

(2) Who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

2. No child who in good faith is under treatment by spiritual means alone, through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall, for this reason alone, be considered to be abused or neglected.

"Assessment of physical harm" means assessment, including visual inspection, used by a child protective investigator, made by either the child protective investigator or by another professional on the request of the child protective investigator, to determine the existence of and the extent of an alleged child victim's physical injury or condition.

"Call" means contact made by a reporter to the State Central Registry through a phone call or other means of communication.

"Caregiver" means any person who has full-time physical custody of a child, including a parent, stepparent, live-in paramour, and resource parent.

"Child Abuse Record Information" or "CARI" means the information in the child abuse registry as established in N.J.S.A. 9:6-8.11, which may be released to a person or agency outside the Department's Division of Youth and Family Services only as prescribed by law.

"Child advocacy center" means a county-based center, pursuant to N.J.S.A. 9:6-8.104, which provides child abuse prevention, intervention, and treatment services to children, who are victims of abuse or neglect.

"Child protective investigator" means a Department representative who performs a child protection investigation including a representative of the Office of the Public Defender acting as the Department's agent.

"Core service" means any one of the mandated services that a regional diagnostic and treatment center may provide to or on behalf of an alleged child victim, and his or her parent or family member whom a center is evaluating in the context of a child protection investigation or treatment of abuse or neglect, as specified in N.J.S.A. 9:6-8.99.

"Criminal History Record Information" or "CHRI" means the information collected by the Department through State and Federal criminal background checks.

"Department" means the New Jersey Department of Human Services.

"Department representative" means a professional employee of the Department, including a child protective investigator.

"Division" means the Division of Youth and Family Services at the New Jersey Department of Human Services.

"Expunction" means the destruction, erasure and complete eradication of a record and applies to the destruction of computer files and corresponding paper files.

"Finding" means the final determination made by a child protective investigator of the results of a child protection investigation.

"Formal investigation" means the stage of a child protection investigation of a report of abuse or neglect which follows an initial investigation that does not result in a finding of unfounded and which is concluded with a finding of substantiated or unfounded.

"Initial investigation" means the first stage of a child protection investigation of a report of abuse or neglect during which a child protective investigator determines whether there is sufficient reason to believe a formal investigation is necessary.

"Institution" means any facility, public or private, in-State, which provides children with out-of-home care, supervision or maintenance. "Institution" includes, but is not limited to, a correctional facility, detention facility, residential school, hospital, camp, day care center that is licensed or should be licensed, group homes and registered family day care homes.

"Institutional caregiver" means an employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff

person of an institution, regardless of whether or not the person is responsible for the care or supervision of the child. "Institutional caregiver" also includes the chief administrator responsible for the operation of an institution or facility.

"Multidisciplinary team" means an investigation and case management team comprised of professionals from law enforcement, medicine, child protective services, mental health, and substance abuse, identification and treatment, and a core service provider from a regional diagnostic and treatment center.

"Paramour" means a parent or guardian's partner, other than his or her spouse, who is in a care giving role for the alleged child victim. This definition is applicable whether the paramour resides in the home, is a same-sex partner or is a current or ex-boyfriend or girlfriend.

"Parent" means a person who is the mother or father of a child through birth or adoption.

"Parent or guardian" means any birth parent, adoptive parent, resource parent, stepparent, or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. "Parent or guardian" includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in N.J.S.A. 9:6-8.21.

"Permanency worker" means a Department representative, other than the child protective investigator, who is responsible for providing and monitoring services to a child and his or her family involved with the Department.

"PROMIS/GAVEL" means the New Jersey courts' computer criminal record check.

"Regional diagnostic and treatment center" or "center" means one of four regional diagnostic and treatment centers, as established pursuant to N.J.S.A. 9:6-8.99, to provide for the medical and mental health diagnostic and treatment needs of abused or neglected children in the geographic region in which the center is located, through a multidisciplinary approach to child abuse and neglect.

"Report" means an account or statement describing a specific incident or set of circumstances of suspected abuse or neglect.

"Reporter" means an individual who contacts the State Central Registry to make a child protective services report, a child welfare service referral, or a request for social services.

"Risk assessment" means a structured process for determining the likelihood that the alleged child victim will be abused or neglected in the future.

"Safety assessment" means a structured process for determining whether the alleged child victim is in imminent danger of harm.

"State Central Registry" means the centralized operation within the Department of Human Services responsible for screening incoming calls to the State of New Jersey to gather information about an alleged incident or set of circumstances suggesting suspected abuse or neglect or a child welfare service need.

"Substantiated" means a finding when the available information, as evaluated by the child protective investigator, indicates by a preponderance of the evidence that a child is an abused or neglected child as defined in N.J.A.C. 10:133-1.3 because the alleged child victim has been harmed or placed at risk of harm by a parent or guardian.

"Temporary caregiver" means a person who has assumed temporary care, custody, or control of a child, including a babysitter, but does not include an institutional caregiver or a police officer acting in an official capacity.

"Unfounded" means a finding when:

- i. There is not a preponderance of evidence that the alleged child victim was harmed or placed at substantial risk of harm; or
- ii. There is not a preponderance of evidence indicating that a parent or guardian and child were involved.

New Rule, R.2005 d.441, effective December 19, 2005.

See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Former N.J.A.C. 10:129-1.3, Referral of cases to a prosecutor, was recodified as N.J.A.C. 10:129-3.1.

#### 10:129-1.4 General policy

The primary concern of all public agencies involved with child abuse and neglect is to ensure the safety, well-being, and best interests of the child. Other considerations, such as the objective of maintaining family integrity, promoting family functioning or the concern for traditional "parental rights," are secondary.

Amended by R.2000 d.253, effective June 19, 2000.

See: 32 N.J.R. 439(a), 32 N.J.R. 2241(a).

Substituted a reference to family functioning for a reference to family therapy.

Recodified from N.J.A.C. 10:129-1.2 by R.2005 d.441, effective December 19, 2005.

See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Former N.J.A.C. 10:129-1.4, Division recommendations to prosecutors, was recodified as N.J.A.C. 10:129-3.2, Department recommendations to prosecutors.

SUBCHAPTER 2. CHILD PROTECTION  
INVESTIGATION PROCESS**10:129-2.1 When an investigation is required**

(a) The State Central Registry representative shall deem a call to be a report if he or she determines that a call contains at least one allegation which, if true, would constitute abuse or neglect, as defined in N.J.A.C. 10:129-1.3. The child protective investigator shall investigate each new report, regardless of whether the alleged child victim and his or her family is known or not known to the Department.

(b) A child protective investigator shall conduct a child protection investigation in response to each report alleging abuse or neglect on a military installation, to the extent permitted by the base commander, in accordance with U.S. Department of Defense Directive 6400.1, incorporated herein by reference as amended and supplemented, and this chapter.

1. U.S. Department of Defense Directive 6400.1 is available for download from the Department of Defense's website, <http://west.dtic.mil/whs/directives/>.

(c) A child protective investigator shall handle each report in which the harm alleged to a child is the result of treatment in good faith for a medical condition by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by duly accredited practitioner thereof in accordance with this chapter, except for N.J.A.C. 10:129-5.3(a)1.

**10:129-2.2 Allegations of abuse or neglect**

(a) The allegations of the types of injuries or risk or harm that may be abuse or neglect include:

1. Child death;
2. Head injuries;
3. Internal injuries;
4. Burns;
5. Poison or noxious substances;
6. Wounds;
7. Bone fractures;
8. Substantial risk of physical injury or environment injurious to health and welfare;
9. Cuts, bruises, abrasions, welts or oral injuries;
10. Human bites;
11. Sprains or dislocations;
12. Mental or emotional impairment; and
13. Risk of harm due to substance abuse by the parent/caregiver or the child.

(b) The allegations of the types of injuries or risk or harm that may be abuse include:

1. Torture;
2. Tying or close confinement;
3. Sexually transmitted diseases;
4. Sexual penetration;
5. Sexual exploitation;
6. Sexual molestation; and
7. Substantial risk of sexual injury.

(c) The allegations of the types of injuries or risk or harm that may be neglect are:

1. Inadequate supervision;
2. Abandonment or desertion;
3. Inadequate food;
4. Inadequate shelter;
5. Inadequate clothing;
6. Medical neglect;
7. Failure to thrive;
8. Environmental neglect;
9. Malnutrition;
10. Lock-out;
11. Medical neglect of a disabled infant; and
12. Educational neglect.

**10:129-2.3 Time frames for initial investigation**

(a) The child protective investigator shall start the investigation of a report within either two hours or 24 hours of the State Central Registry representative determining the time frame and notifying the field office or the after-hours child protective investigator of the report, unless a Division or other entity authorizes a delay based upon the request of a law enforcement official, pursuant to N.J.S.A. 9:6-8.11.

(b) The State Central Registry representative determines whether each report meets one or more of the following criteria. The State Central Registry representative determines each report that meets one or more of the following criteria shall be investigated within two hours of receipt at the State Central Registry. The criteria are:

1. Law enforcement personnel request an immediate response;
2. An immediate response will prevent the loss of evidence;

3. A child has died due to abuse or neglect and a sibling remains under the care of a parent or guardian;
4. A child is a boarder baby left in a hospital or born drug-exposed;
5. A child under age six is alone at the time the State Central Registry receives the report;
6. A child requires medical attention at the time the State Central Registry receives the report; or
7. A child is being seriously physically abused at the time the State Central Registry receives the report.

#### 10:129-2.4 Evidence needed to support a finding

(a) The child protective investigator shall, in completing the investigation of a report containing one or more allegations of abuse or neglect, as specified in N.J.A.C. 10:129-2.2:

1. Obtain evidence whether the child has an injury or condition.
2. Obtain evidence whether the injury or condition is a direct result of one of the following:
  - i. Some action by a parent or guardian;
  - ii. The failure of a parent or guardian to stop the action of another person; or
  - iii. The parent or guardian's reckless disregard of a harmful situation;
3. Obtain a detailed explanation from the alleged child victim, the alleged perpetrator, each witness and each other person with knowledge of the injury or condition;
4. Document the final police investigation result, if any, whenever there is police involvement in the investigation; and
5. Document each verbal statement by the police and the request for the result, whenever there is police involvement in the investigation and a result is not made or is unavailable.

(b) The child protective investigator shall, in completing the investigation of a report containing one or more allegations of abuse specified in N.J.A.C. 10:129-2.2(a) and (b), except substantial risk of physical injury or environment injurious to health and welfare and risk of harm due to substance abuse by a parent or guardian or child:

1. Obtain a medical opinion which states whether the explanation given by the parent or guardian for the injury or condition is inconsistent with the injury or condition and that the most likely manner in which the injury or condition occurred was abuse, when there is not a clear preponderance of evidence regarding the allegation; or

2. Obtain a statement by the alleged perpetrator that he or she has admitted causing the injury or condition.

(c) The child protective investigator shall, in completing an investigation of a report containing an allegation of sexual penetration, sexual exploitation, or sexual molestation:

1. Document the consistency between each statement and any existing physical evidence;
2. Assess, for each allegation listed in (c) above as well as for an allegation of substantial risk of sexual injury, the credibility of each subject involved in the investigation; and
3. Obtain, for each allegation listed in (c) above as well as for an allegation of substantial risk of sexual injury, a statement from a mental health professional, which does or does not corroborate behavioral or emotional problems when the child's emotional or behavioral problems are used to corroborate the information used to make the finding.

(d) The child protective investigator shall, in completing an investigation of a report containing one or more allegations specified in N.J.A.C. 10:129-2.2(a) and (b), obtain circumstantial evidence which identifies the most likely perpetrator if multiple alleged perpetrators are identified.

#### 10:129-2.5 Requirements for an initial investigation

(a) The child protective investigator need not repeat a required component of the investigation when investigating a report containing more than one allegation.

(b) The child protective investigator shall interview the alleged child victim in person and individually, except in cases of an interview at school, pursuant to N.J.A.C. 6A:16-11.2(a)7i, during the initial investigation of a report containing any allegation. The child protective investigator shall observe each non-verbal alleged child victim. The child protective investigator shall use sensitivity to avoid further trauma to each alleged child victim.

(c) The child protective investigator shall, in completing an initial investigation of a report containing any allegation:

1. Complete a safety assessment;
2. Interview, in person and individually, the caregiver and each adult in the home. The child protective investigator shall interview the alleged child victim's caregiver on the same day as the alleged child victim, if possible;
3. Interview, in person and individually, except in cases of an interview at school, pursuant to N.J.A.C. 6A:16-11.2(a)7i, each other child residing in the home of the alleged child victim. The child protective investigator shall observe each non-verbal child;

committed child abuse even though the resulting injury was not intended.

(d) This policy regarding referral applies whether the child is residing at home or in an institution, school or other residential facility, and whether the person believed to be responsible for the injuries is the child's parent, caretaker or any other person.

(e) The Department's duty to refer a case to the prosecutor arises as soon as the caseworker has any information about the case which leads him or her to suspect that the alleged abuse or neglect may have occurred. This means that the child's condition or injury is one of those specified in this policy and the caseworker has reason to believe that the condition or injury was not accidentally caused.

1. In some cases, such as where the child is in a hospital and a doctor states his or her opinion that the condition or injury was probably not accidental, the caseworker will have sufficient information to require a report at a very early stage of the investigation. In other cases, such as where evidence initially supports the claim that the condition or injury was accidentally caused, the duty to report may not arise until a later point when the caseworker has conducted a more extensive investigation.

2. Thus, referral need not be made at the time a report is first received by the Department even if the report provides information to place the case in one of the categories set forth in this policy. This information should be supported by the belief of the caseworker. This does not mean that the caseworker must have completed an investigation and secured solid evidence of abuse or neglect. Rather, cases falling within these categories must be referred at the point at which the caseworker has some suspicion that the child's condition or injury probably was not accidentally caused.

(f) Prompt referrals of child abuse or neglect cases are important, and in some cases essential. Hence, written referrals on a Department-specified form which contains a narrative description of the essential facts, shall be sent to the prosecutor as soon as the caseworker determines that referral is required by this policy. In cases where there is serious or repeated harm, the referral shall be made as soon as possible by telephone, with written confirmation being sent within 48 hours thereafter by mail or fax. The Department will establish, consistent with this policy, specific procedures for making referrals which will include participation of supervisory personnel in identifying cases that this policy requires to be referred and designation of a person in each local office to act as a liaison to the prosecutor. Copies of such procedures will be furnished to all county prosecutors.

Amended by R.1995 d.362, effective July 3, 1995.  
See: 27 N.J.R. 1125(a), 27 N.J.R. 2616(c).

Made stylistic changes.  
Amended by R.2000 d.253, effective June 19, 2000.  
See: 32 N.J.R. 439(a), 32 N.J.R. 2241(a).

In (d)1, neutralized a gender reference; and in (e), inserted "by mail or fax" at the end of the second sentence.  
Recodified from N.J.A.C. 10:129-1.3 and amended by R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).  
Rewrote the section.

#### Case Notes

Various state, county, and governmental agencies as well as private agencies and persons were immune under doctrine of quasi-judicial immunity. *Delbridge v. Schaeffer*, 238 N.J.Super. 323, 569 A.2d 872 (L.1989).

Close working relationship between the Division of Youth and Family Services and county prosecutor's office made DYFS caseworker "law enforcement officer," for purposes of Miranda when conducting custodial interview of defendant charged with sexually assaulting his daughters. *State v. Helewa*, 223 N.J.Super. 40, 537 A.2d 1328 (A.D.1988).

#### 10:129-3.2 Department recommendations to prosecutors

(a) When referring a case to the prosecutor, the caseworker may already have information sufficient to arrive at a preliminary conclusion concerning the need for investigation by a law enforcement agency. This conclusion will be based on the standards in this policy. A recommendation and underlying reasons therefor will be communicated to the prosecutor at the time the case is referred.

(b) Recognizing that the caseworker may have already conducted a preliminary investigation of the case, that the caseworker has some experience and expertise enabling him or her to assess the need for action by the prosecutor, that in some cases efforts already made to ameliorate the underlying problems may be undermined by the initiation of a police investigation and that the caseworker is also in a position to identify cases in which immediate action by a law enforcement agency is required, the prosecutor shall give due consideration to the recommendations of the Department. If the prosecutor determines to investigate a case notwithstanding a contrary recommendation by the Department, he or she should discuss the matter with the caseworker, his or her supervisor or the local office liaison before initiating the investigation.

Amended by R.2000 d.253, effective June 19, 2000.  
See: 32 N.J.R. 439(a), 32 N.J.R. 2241(a).

In (b), neutralized gender references throughout.  
Recodified from N.J.A.C. 10:129-1.4 and amended by R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Section was "Division recommendations to prosecutors." In (b), substituted "Department" for "Division" throughout.

#### 10:129-3.3 Response by prosecutors

(a) In order to facilitate communication with the Department and coordinate handling of child abuse and neglect cases, each county prosecutor will designate an assistant prosecutor to serve as liaison to the Department's local office for such cases. The person so designated will be responsible for keeping the Department informed as to the course of action taken by the prosecutor. In addition, and to

the extent practicable, each prosecutor will delegate to one or several investigators responsibility for conducting all investigations in child abuse and neglect cases.

(b) The prosecutor may take various courses of action upon receipt of a referral, among them, the following:

1. Advise the Department staff member making the referral that the prosecutor will not undertake an investigation and request that the prosecutor be advised immediately of any indication of further or continuing abuse or neglect; or

2. With advance notice to the Department, undertake an initial investigation using, to the extent practicable, specially designated investigators or refer the matter to a designated officer in a local police department for initial investigation.

(c) After investigating a case, the prosecutor will determine whether criminal prosecution must be undertaken. He or she should confer with the caseworker in making this determination and will advise the caseworker of his or her decision.

Amended by R.2000 d.253, effective June 19, 2000.  
See: 32 N.J.R. 439(a), 32 N.J.R. 2241(a).

In (c), neutralized gender references throughout.  
Recodified from N.J.A.C. 10:129-1.5 and amended by R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Substituted "Department" for "Division" throughout.

#### Case Notes

Doctrine of fundamental fairness did not require any additional procedural safeguards other than those required by constitution or statute regarding Division of Youth and Family Services' (DYFS) investigation into suspected child abuse, so as to warrant suppression of defendant's statement to DYFS caseworker where there was no indication that caseworker interviewed defendant within intent of aiding criminal investigation. *State v. P.Z.*, 152 N.J. 86, 703 A.2d 901 (N.J. 1997).

#### 10:129-3.4 Law enforcement assistance

(a) Each child protective investigator shall request assistance from and make every effort to coordinate investigative activities with local law enforcement pursuant to N.J.S.A. 9:6-8.28e and 8.29d, when conducting an investigation and whenever:

1. The child protective investigator needs personal protection;
2. The nature of the report suggests it;
3. There is an immediately life-threatening situation; or
4. Violence is occurring or is immediately threatened.

New Rule, R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

#### 10:129-3.5 Coordination of a child protection investigation

(a) Each child protective investigator shall, when conducting a child protection investigation of a report in which law enforcement, a regional diagnostic and treatment center, a child advocacy center, medical and psychological personnel or a multidisciplinary team is involved, participate in the coordination of the following activities:

1. Interviewing the alleged child victim and the alleged perpetrator;
2. Accessing appropriate investigative medical and psychological services; and
3. Making timely and appropriate linkages to treatment.

(b) Each child protective investigator shall make information developed during the investigation available on a timely basis to any party identified in (a) above and involved in the case, within the limits of N.J.S.A. 9:6-8.10a.

New Rule, R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

#### 10:129-3.6 Medical evaluation and treatment

(a) The Department representative shall arrange for the alleged child victim and each of his or her siblings or any other child in the household to receive appropriate and immediate medical evaluation and treatment pursuant to N.J.S.A. 9:6-8.30c, when an alleged child victim has been removed from his or her home. A medical professional shall release medical reports resulting from this examination or treatment to a Department representative for the purpose of aiding in the finding of whether the alleged child victim has been abused or neglected, pursuant to N.J.S.A. 9:6-8.30c.

(b) The child protective investigator may arrange for a psychiatric or psychological evaluation and treatment for the alleged child victim with parental consent or with a court order, whenever the child protective investigator has reason to believe that the alleged child victim may have suffered serious emotional harm.

New Rule, R.2005 d.441, effective December 19, 2005.  
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

### SUBCHAPTER 4. SERVICES AND REMOVAL DURING INVESTIGATION

#### 10:129-4.1 Services on an emergency basis

The Department representative shall offer the family services which are listed in N.J.A.C. 10:133E-2.1 and 2.2 that are needed on an emergency basis pursuant to N.J.S.A. 30:4C-13 and 9:6-8.11, before completing the child protection investigation and until the child protection investigation is completed.

**10:129-4.2 Emergency placement process**

(a) The Department representative shall remove the alleged child victim from his or her current home and initiate an emergency placement process, if:

1. Any child in the home is determined to be unsafe and at imminent risk of harm in accordance with N.J.A.C. 10:129-2.6; and
2. A plan which allows the alleged child victim to remain in his or her own home cannot be developed.

(b) The Department representative shall place an alleged child victim removed from his or her home in a resource home or in a congregate care facility which is consistent with his or her service need.

(c) The Department representative shall make an effort to place the alleged child victim with his or her sibling, if:

1. The alleged child victim was placed on an emergency basis and has a sibling in placement; or
2. If the alleged child victim and his or her sibling are being placed at the same time.

(d) The Department representative shall, within two court days of the emergency placement:

1. Return the child to his or her home when the Department representative has reason to believe that the child may do so safely; or
2. Petition the court for continued out-of-home placement.

**10:129-4.3 Information provided to parent or caregiver**

(a) The child protective investigator shall make every reasonable effort to notify the child's parent, caregiver, temporary caregiver, and institutional caregiver responsible for the child at the time of the removal, when an emergency removal is made pursuant to N.J.S.A. 9:6-8.29.

(b) A child protective investigator shall immediately:

1. Serve or attempt to serve written notice upon the parent, caregiver, or chief administrator of an institution from which the child was removed, whenever a child has been taken into protective custody pursuant to N.J.S.A. 9:6-8.16; and
2. Begin a child protection investigation.

**SUBCHAPTER 5. FINDINGS AND DOCUMENTATION****10:129-5.1 Informing the alleged child victim, caregiver, and temporary caregiver about the investigation**

(a) The child protective investigator shall notify the parent of the child subject of the investigation and the caregiver of the child subject of the investigation, if the child will remain in the custody of the caregiver, as soon as possible after interviewing or observing the child or any of his or her siblings that the child(ren) has been interviewed or observed.

(b) When an investigation is conducted in an institution, and any child other than the child subject of the investigation is interviewed without the knowledge and consent of the parent, the Department shall not be obligated to notify the parents of those children of the investigation, except when abuse or neglect is substantiated and that child was abused or neglected.

(c) The child protective investigator shall provide the following people with the information specified in (d) below:

1. The alleged child victim in accordance with and in a manner appropriate to the alleged child victim's age, condition, and capacity to understand and cope with the information;
2. The alleged child victim's caregiver with physical custody at the time of the incident;
3. The caregiver with whom the alleged child victim normally resides; and
4. The caregiver to whom the alleged child victim will be returned, if the alleged child victim is in an institution at the time of the incident.

(d) The child protective investigator shall provide the following information to those people specified in (a) above:

1. That a report has been made, the nature of the allegation and that an investigation will be conducted;
2. The name and telephone number of the child protective investigator assigned to investigate and his or her supervisor; and
3. That a Department representative is responsible for conducting an investigation pursuant to N.J.S.A. 30:4C-11 and 12 and 9:6-8.11.

(e) The child protective investigator shall delay notifying the persons specified in (a) and (c) above, as long as the delay does not appear to put the alleged child victim at risk, when the police, prosecutor or Deputy Attorney General has determined that notifying them would impede the investigation or litigation.

(f) The child protective investigator shall provide the information indicated in (b) above at the time of his or her

initial contact with each person interviewed and named in (a) above.

(g) The child protective investigator shall inform the temporary caregiver of any alleged child victim who is in the care of that temporary caregiver at the time of the investigation of the provisions of (b) above, when that information is necessary for the temporary caregiver to provide care for the alleged child victim.

#### **10:129-5.2 Information provided to alleged perpetrator about the investigation**

The child protective investigator shall, upon initial contact, inform each person specifically alleged to be a perpetrator of abuse or neglect about the provisions of N.J.A.C. 10:129-5.1 and that he or she has been named the alleged perpetrator of abuse or neglect, unless the police, prosecutor, or Deputy Attorney General advises the child protective investigator to delay providing the information, or when providing such information will jeopardize the investigation.

#### **10:129-5.3 Investigation findings**

(a) The child protective investigator shall evaluate the available information and, for each allegation, determine whether abuse or neglect has occurred, and shall make a finding of either substantiated or unfounded.

(b) The child protective investigator shall make every reasonable effort to identify the perpetrator for each allegation of abuse or neglect.

(c) The child protective investigator shall make the finding for each report within 60 days of the report being received at the State Central Registry, except for good cause approved by the office manager or designee. The officer manager or designee may grant extensions in increments of 30 days, if the child protective investigator is continuing effort to confirm credible information.

(d) The child protective investigator shall not make a finding of substantiated on an allegation of medical neglect or medical neglect of a disabled infant when the harm or risk of harm to a child is the sole result of treatment in good faith by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof.

#### **10:129-5.4 Notification of finding**

(a) The child protective investigator shall provide notification of the finding to those persons specified in (c) through (e) below. The child protective investigator shall delay the notification as long as the delay does not appear to put the alleged child victim at risk, when a case is in litigation or a report is under criminal investigation and the police, prosecutor or Deputy Attorney General has determined that

notification of the investigation findings to persons in (c) through (e) below, would interfere with the litigation.

(b) The child protective investigator shall notify persons specified in (c) through (e) below of the finding no later than 10 days from the date upon which the Department made a finding of substantiated or unfounded, unless for good cause approved by a supervisor.

(c) The child protective investigator shall advise each person identified as a perpetrator in a report of substantiated abuse or neglect that:

1. He or she has been identified as a confirmed perpetrator of abuse or neglect;
2. His or her name and identifying information are entered into the Department's child abuse registry, pursuant to N.J.S.A. 9:6-8.11; and
3. He or she shall have an opportunity to dispute a finding of substantiated abuse or neglect, in accordance with N.J.A.C. 10:120A.

(d) The child protective investigator shall advise each alleged perpetrator of the finding, when a report is unfounded, except as limited by (a) and (b) above.

(e) The child protective investigator shall advise the following people that the investigation has been completed and the finding of the investigation, upon completion of the investigation:

1. The caregiver with physical custody at the time of the incident;
2. The parent with whom the child normally resides;
3. The parent to whom the alleged child victim will be returned, if the alleged child victim was in an institution at the time of the incident; and
4. The institutional caregiver or chief administrator of the institution, if the alleged child victim was in institutional placement.

#### **10:129-5.5 Other notification at conclusion of investigation**

(a) The child protective investigator shall advise the following people whether further services shall be offered or provided to a child or to his or her family, upon completion of the investigation:

1. The caregiver with physical custody at the time of the incident;
2. The parent with whom the child normally resides; and
3. The parent to whom the alleged child victim will be returned, if the alleged child victim was in an institution at the time of the incident.