

10:129-1.5 Response by prosecutors

(a) In order to facilitate communication with the Division and coordinated handling of child abuse and neglect cases, each county prosecutor will designate an assistant prosecutor to serve as liaison to the Division's district office for such cases. The person so designated will be responsible for keeping the Division 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 Division 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.
2. With advance notice to the Division, 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 should confer with the caseworker in making this determination and will advise the caseworker of his decision.

SUBCHAPTER 2. CHILD ABUSE PREVENTION AND TREATMENT ACT REQUIREMENTS

10:129-2.1 Confidential reporting and releasing requirements

(a) All records of child abuse reports made pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Division of Youth and Family Services in investigating such reports including reports received pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded to the central registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized in subsection (b) below.

(b) The Division may release the records and reports referred to in (a) above, or part thereof, to:

1. A public or private child protective agency authorized to investigate a report of child abuse or neglect;
2. A police or other law enforcement agency investigating a report of child abuse or neglect;
3. A physician who has before him a child who he reasonably suspects may be abused or neglected;

4. A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child who he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

5. An agency authorized to care for, treat, or supervise a child who is the subject of a child abuse report; or an agency authorized to care for, treat, or supervise a parent, guardian or other person who is responsible for the child's welfare, when the information is needed in connection with the provision of care, treatment, or supervision to such child or such parent, guardian or other person by the agency;

6. A court, upon its finding that access to such records may be necessary for determination of an issue before the court, and such records may be disclosed by the court in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court;

7. A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

8. Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

9. Any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the prior written approval of the director of the Division of Youth and Family Services shall first have been obtained, and the child through his or her representative gives permission to release the information;

10. A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L. 1993, c. 350 (N.J.S.A. 30:5B-25.1 et al.) and as necessary for use in administrative appeals related to information obtained through a central registry search.

(c) Any individual agency, court, grand jury or legislative committee which receives from the Division the records and reports referred to in (a) above shall keep such records and reports, or parts thereof, confidential.

(d) Whenever information is disclosed pursuant to any of the exceptions enumerated in (b)1 through 10 above, the identity of the referrant and any other person shall be

protected and not disclosed by the Division where the disclosure of such information would be likely to endanger the life or safety of the referrant or other person, or where such disclosure would be likely to result in the discharge or discrimination against the referrant with respect to his or her employment.

1. The determination as to whether the disclosure of such information would be likely to endanger the life or safety of the referrant or other person, or jeopardize the referrant's employment, shall be based upon the case-worker's and supervisor's evaluation of the nature and seriousness of the case and an assessment of the propensity for violence and harm or discharge or discrimination.

2. This procedure shall apply to all instances in which information (records and reports) is requested, but particularly when information is requested by an agency authorized to care for, treat or supervise the child's parent, guardian or other person responsible for the child's welfare when the information is needed in connection with the provision of care, treatment or supervision of the parent, guardian or other person responsible for the child's welfare.

Amended by R.1995 d.362, effective July 3, 1995.
See: 27 N.J.R. 1125(a), 27 N.J.R. 2616(c).
Added (b)10.

10:129-2.2 Definition of sexual abuse

(a) The term "sexual abuse" includes:

1. The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct (or any simulation of such conduct) for the purpose of producing any visual depiction of such conduct; or

2. The rape, molestation, prostitution, or other such form of sexual exploitation of children, or incest with children, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby.

(b) The term "child" or "children" means any individual who has not or individuals who have not attained the age of 18.

New Rule, R.1985 d.706, effective January 21, 1986.
See: 17 N.J.R. 2735(a), 18 N.J.R. 196(a).