

CF OPERATING PROCEDURE
NO. 15-12

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, December 15, 2006

Documentation Management

PROCEDURES FOR RELEASING SELECTED INFORMATION PERTAINING TO A REPORT OF ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF A CHILD OR ADULT

1. Purpose. This operating procedure describes the requirements for the release of records of the Department of Children and Families and its designees involving death and/or serious bodily injury to a child or adult. This operating procedure also describes the requirements under which all records generated as a result of an abuse investigation not involving death or serious bodily injury shall be released.
2. Scope. This operating procedure is applicable to all district Family Safety staff and department attorneys, as well as, providers of child welfare and adult protection services under contract to the department.
3. Authority. Subsections 39.202(2)(o), 39.2021(1), 415.107(3)(l) and 415.1071(2), Florida Statutes (F.S.).
4. Explanation of Terms. For the purposes of this operating procedure, the following definitions shall apply:

a. "Abuse records" means all records held by the department concerning reports of child or adult abuse, neglect, exploitation or abandonment, including reports made to the central abuse hotline and all records generated as a result of such reports.

b. "Designee" means a person, contractual provider or other agency or entity named by the department to perform duties assigned by the department.

c. "Serious bodily injury" means an injury to a child or adult that consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ. See subsection 316.1933(1), F.S.

5. Requirements.

a. In the event of the death of a child or vulnerable adult, the Secretary of the department must be immediately notified as provided in CFOP 215-6.

b. In the event of the death of a child or adult determined to be a result of abuse, abandonment, or neglect, the records (with the exception of information identifying the reporter) shall be released to any person requesting such records. [ss.39.202(2)(o) & 415.107(3)(l), F.S.]

c. Where a request has been made by the news media to release records following serious bodily injury to a child or adult, the district will so inform the Secretary and General Counsel. Unless the Secretary or General Counsel directs that a petition not be filed, the department shall file a petition

This operating procedure supersedes CFOP 15-12 dated December 1, 1998 and CFOP 175-89 dated September 1, 1999.

OPR: OSLS

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for release of the department's records pursuant to ss.39.2021(2) or 415.1071(2), F.S., whichever is appropriate, within 48 hours excluding Saturdays, Sundays and legal holidays, from the date of the request. In the absence of a media request, filing of the petition is at the discretion of the district/region administrator.

6. District/Region Procedures.

a. Immediately upon receiving a request for records, the district/region program manager shall secure all existing files, open or closed, which have been generated concerning the child, sibling, parents and/or other caretaker.

b. Within 24 hours of receipt of the request, the district/region shall conduct a review of the records in its possession and determine whether there are pending investigations.

c. The review shall involve the participation of the district/region administrator, district/region program manager, operations program administrator, public information officer and the district/region legal counsel, in conjunction with the department child welfare-managing attorney. The review shall serve as an inventory process to determine the department's past and present involvement and to provide a preliminary review of the decisions made by the department on previous investigations.

d. The program manager or other authorized department representative shall notice law enforcement once a decision has been reached to petition for release of the records. Documentation of such notice shall be retained in the case file.

e. The district/region legal counsel or the Child Welfare attorney shall notice the State Attorney's Office of the decision to file a petition seeking court authorization to release the records. Documentation of such notice shall be retained in the case file.

f. The district/region administrator or designee shall contact the Secretary and General Counsel for the Department of Children and Families to advise them when a petition to open the records is filed. Documentation detailing the outcome of such discussions shall be retained in the case file.

g. In cases involving the death of a child, the district/region administrator shall consult with the district/region legal counsel in regard to release of the records. Documentation of any such consultations shall be retained in the case files.

h. In cases involving serious bodily injury to a child, the district/region shall consult with the district/region legal counsel in regard to the preparation of all pleadings necessary for the release of the records when a media request for the records has been made. In the event no media request for the records is made, the district/region administrator shall consult with the district/region legal counsel to determine whether to file a petition to release the records. Documentation of any such consultations shall be retained in the case file.

i. the district/region legal counsel is responsible for determining if any information must be redacted from the documents.

7. Filing The Petition. A petition can be filed when the Secretary or district/region administrator has determined that the public interest in the information can be served while maintaining the privacy rights and best interests of the vulnerable adults or children who are the focus of the investigation. The Secretary and district/region administrator must also consider the interest of the child's siblings and the privacy rights of others identified in the report. At the direction of the Secretary or district/region administrator, the district/region legal counsel or designee shall:

a. Assemble a complete copy of all records pertaining to the seriously injured or deceased child or vulnerable adult.

b. Draft the necessary petition under ss. 39.2021 or 415.1071, Florida Statutes, and, if petitioning under sections 39.2021(2) or 415.1071(2), prepare the summary described in paragraph 10 of this operating procedure.

c. File the petition and effect personal service of the petition, and any notice of hearing on the child or vulnerable adult (where applicable), the child's parents or legal custodian (including the guardian ad litem, or the guardian ad litem program if appointed and no specific guardian ad litem has been identified), the legal guardian of the vulnerable adult (if any), and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment or exploitation. Notice of hearing must also be provided to the office of the state attorney if the district/region legal counsel knows that criminal charges have been filed or are being considered.

8. Scheduling A Hearing. At or before the time of filing the petition, district/region legal counsel must make a good-faith effort to schedule a hearing within 24 hours. If a hearing can be set, notice to the parties shall be by any reasonable means most likely to assure actual notice.

9. Releasing The Information. The department must comply with the court order by either releasing the information or by not releasing it as ordered by the court. In the case of petitions filed under ss. 39.2021 (2) or 415.1071(2), F.S., if the court has not granted or denied the petition after the passage of 24 hours, excluding Saturdays, Sundays and legal holidays, the district/region administrator may release to the public summary information (as described in paragraph 10 of this operating procedure) including:

a. A confirmation that an investigation has been conducted concerning the alleged victim, including date of the report, a brief description of the alleged abuse, neglect, abandonment or exploitation, date and findings of the on-site investigation, and confirmation as to whether previous reports have been made.

b. The dates and brief description of other procedural activities undertaken during the department's investigation, including taking the victim into protective custody, medical examination and treatment, and law enforcement contact.

c. The date of each judicial proceeding, including shelter, adjudicatory and dispositional hearings, department and guardian ad litem recommendations as to custody and services, and the rulings of the court.

10. Summary Information To Be Released. The summary information released in accordance with paragraph 7 of this operating procedure shall be in narrative form, and shall not include the name or other identifying information with respect to any person identified in any investigation. The summary shall not attach any investigation record documents. The summary must be limited to confirmation of factual information that does not violate the privacy rights of the victim and the victim's family. Under no circumstances shall the identity of the reporter be revealed in this release of information.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

JOHN J. COPELAN
General Counsel

SUMMARY OF REVISED, ADDED, OR DELETED MATERIAL

This operating procedure has been updated to reflect current procedures for releasing information pertaining to a report of abuse, neglect, exploitation or abandonment of a child or adult.