


DCF	COMMONWEALTH OF MASSACHUSETTS ~ DEPARTMENT OF CHILDREN AND FAMILIES	
	Policy Name: POLICY FOR REFERRALS TO THE DISTRICT ATTORNEY AND LOCAL LAW ENFORCEMENT AUTHORITY	
	Policy #: 85-012	Approved by:
	Effective Date: 2/15/1985	
Revision Date(s): 6/1/1987; 7/1/1989; 2/24/1992; 2/10/1998; 7/8/2008; 2/6/2017		

POLICY FOR REFERRALS TO THE DISTRICT ATTORNEY AND LOCAL LAW ENFORCEMENT AUTHORITY

NOTE: Throughout this document, the terms "child" and "children" are used as general and inclusive terms to mean child(ren)/youth from birth of to age 18 years.

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I. PURPOSE AND OVERVIEW

Pursuant to MGL c. 119, § 51B (k), the Department is required to notify and provide information to the appropriate District Attorney (DA) and local law enforcement authority (LLEA) when it has reason to believe that certain specific conditions listed in MGL c. 119, §51A (k) have likely resulted from abuse or neglect or when it becomes aware that a child may be the victim of human trafficking or sexual exploitation. The Department may also make discretionary notifications concerning other possible criminal conduct to the appropriate District Attorney and local law enforcement authority as discussed below.

The Department encourages and supports coordination of responses among child protection agencies, law enforcement and prosecutors in responding to reports that it refers to the District Attorney and law enforcement authority. A coordinated response serves to minimize the possible negative impact of investigative activity on any child victim and to reduce the risk of loss or destruction of evidence. The Department supports the use of Multi-Disciplinary Service Teams (MDSTs) in its response to allegations of sexual abuse, sexual exploitation, human trafficking, and serious physical injury or death resulting from abuse or neglect.

The Department will cooperate with the District Attorney to convene a Multi-Disciplinary Service Team (MDST) review for each situation referred by the Department that the Department and the District Attorney agree would benefit from such a review. The purpose of this form of collaboration is to create an interdisciplinary forum for reviewing the safety and well-being of child(ren) and families who are the subjects of the referrals and for exchanging information vital to providing necessary services and support.

NOTE: Department staff should immediately report to a supervisor or any member of the management team any emergency that threatens the safety or well-being of an employee or Department-involved family for which a 911 police response is required. (See Department Workplace Violence Prevention Policy)

II. POLICY: MANDATORY REFERRALS

Mandatory referrals are made to the District Attorney for the county and the local law enforcement authority of the city or town in which the reported child resides and in which the alleged incident occurred. The Department's obligation to notify these entities is independent from its statutory obligation to intervene where it determines that a child is at risk of abuse or neglect. As a result, the Department will often be required to contact the District Attorney(s) and local law enforcement authority(ies) at an early stage, such as at screening, before a determination has been made that Department involvement is required. Likewise, the Department is required to make notifications regardless of the amount of time that has passed since the reported incident of abuse or neglect and even where the Department is not able to identify an alleged perpetrator.

The Department must contact the appropriate District Attorney(s) and local law enforcement authority(ies) as soon as it has reason to suspect that one of the conditions listed below may have resulted from abuse or neglect:

- a. A child has died.
- b. A child has suffered brain damage, loss or substantial impairment of a bodily function or organ, substantial disfigurement, or other serious physical injury including, but not limited to:
 - a fracture of any bone,
 - a severe burn,
 - an impairment of any organ or
 - an injury requiring the child to be placed on life-support systems.
- c. A child has been sexually assaulted. This category includes the crimes of indecent assault and battery, and rape of a minor, in any form.
- d. A child has been the victim of human trafficking – even when information does not point to involvement by a caregiver. This category covers a child who has been subjected to harboring, recruitment, transportation, provision, obtaining, patronizing or soliciting for the purpose of:
 - sex trafficking (i.e., inducement to perform a commercial sex act, forced sexual services and/or sexually explicit performance including the production of pornography); and/or

- labor trafficking (i.e., forced services, involuntary servitude, peonage, debt bondage or slavery).
- e. A child has been sexually exploited – even when information does not point to involvement by a caregiver. A child is the victim of sexual exploitation if the child:
 - engages in or offers or agrees to engage in sexual conduct with another person in return for a fee or in exchange for food, shelter, education or care;
 - is encouraged or recruited by another person to engage in prostitution; and/or
 - is encouraged or recruited to consent or consents to engage in a sexually-explicit performance or to be the subject of lascivious, obscene or pornographic photography, filming or other depiction.
- f. Any other disclosed physical or sexual abuse that involves physical evidence that is at risk of loss or destruction, or any disclosure by a child of an incident of sexual abuse.

III. POLICY: DISCRETIONARY REFERRALS

In addition to those mandatory referrals listed above, under the authority of MGL c. 119, § 51B (k) (4), the Department may refer to the District Attorney and local law enforcement authority other reports or information that involve serious criminal conduct that affects the safety and well-being of children or that pose a serious threat to public safety generally.

Discretionary referrals may be made at any point in the Department's involvement with a family and should be made as soon as the Department becomes aware of information warranting a referral.

IV. PROCEDURES

1. **Carry Out Mandatory DA and LLEA Referrals, When Indicated.** At any point during screening or response, when there is reason to suspect that one of the conditions listed above requiring *mandatory* referrals to the District Attorney(s) and local law enforcement authority(ies) exists, the Screener or Response Worker, after consulting with the Supervisor, shall notify the District Attorney and local law enforcement authority where the incident happened and where the child resides, when different.

Notification should be made initially by telephone or email in order to ensure immediacy and support early collaboration. The Screener must notify the District Attorney(s) and local law enforcement authority(ies) immediately when the report will be treated as an Emergency Response and within one working day for a Non-Emergency Response. (See Protective Intake Policy) In either circumstance, the Screener or Response Worker shall complete formal referrals to the District Attorney(s) and local law enforcement authority(ies) by sending a copy of the 51A document as soon as it is completed.

Following the 51B determination of any response in which the District Attorney(s) and local law enforcement authority(ies) have already been notified, the Response Worker indicates in the electronic record the basis for the mandatory referrals and completes the appropriate notice letter(s), for review and mailing by the Area Director/designee, or Special Investigations Unit (SIU) Director/designee as applicable, with the 51A report and 51B response (see Procedure IV-5 below).

2. **Carry Out Discretionary DA and LLEA Referrals, When Approved.** If at any point during screening or response, or other casework practice, the worker finds that there is reason to believe that *discretionary* referrals to the District Attorney(s) and local law enforcement authority(ies) are needed, the worker shall consult with their Supervisor and initiate the referrals by indicating in the electronic record or case record, as applicable, that referrals are recommended and why.
 - **Review of Discretionary Referrals:** After documenting that *discretionary* referrals are being initiated, the worker submits the recommendation for the referrals through the electronic record (or case record, as applicable) and forwards the "notice letter to alleged perpetrator," along with all relevant documents (no separate referral is necessary), to their Supervisor. The Supervisor reviews the referral material and if approving the referral, refers the discretionary referrals to the Area Director/designee or SIU Director/designee as applicable, for final approval.
 - **Approval of Discretionary Referrals:** The Area Director/designee or SIU Director/designee as applicable, retains the final responsibility to approve discretionary referrals to the District Attorney(s) and local law enforcement authority(ies). If there is a legal question in interpreting

whether an incident is proper for discretionary referral, the Area Director/designee should consult with legal staff.

Following approval, discretionary referrals should follow the same steps applicable to mandatory referrals (see below Procedures IV-3 through 6, as applicable).

3. **Coordinate/Collaborate with the District Attorney.** The Department shall collaborate and coordinate with the office of the District Attorney at the earliest opportunity for every report or other information referred to the District Attorney(s) and local law enforcement authority(ies). This collaboration and coordination is especially important regarding victim interviews. However, there are times when the Department's statutory requirement to ensure child safety will supersede law enforcement's request for delaying an interview of a victim or other household member. In such circumstances, the Department must take whatever steps it deems necessary to ensure the immediate safety of the child. The following specific procedures govern collaboration in situations involving allegations of sexual assault, sexual exploitation and human trafficking:
 - **Sexual Assault:** When referrals have been made to the District Attorney(s) and local law enforcement authority(ies) based on information indicating a possible crime of sexual assault, the Department and the office of the District Attorney work collaboratively to conduct a joint interview of the victim through the Sexual Assault Investigation Network (SAIN) teams. SAIN teams are sometimes located at the Children's Advocacy Centers (CACs) of the county or at the office of the District Attorney.
 - **Sexual Exploitation and/or Human Trafficking:** When the referrals involve a suspected victim of sexual exploitation or human trafficking, the Department notifies the designated coordinator at the office of the District Attorney to arrange the victim interview and to consult regarding other activity.
4. **Provide General Information to the Family/Alleged Perpetrator.** The Response Worker should not inform the family when the Department makes notifications or formal referrals to the District Attorney(s) and local law enforcement authority(ies), unless the notification is needed to schedule victim interviews. The Response Worker may, however, discuss with the family general Department procedures and outcomes of responses, including the possibility of referrals to the District Attorney(s) and local law enforcement authority(ies).
5. **Follow-Up after the Response Determination on Mandatory and Discretionary Referrals.**

NOTE: See Procedure IV-1 above as to responsibilities of the Response Worker.

- **Document the DA/LEEA Referrals.** The Area Director/designee, or SIU Director/designee as applicable, documents the date the referrals were sent to the District Attorney(s) and local law enforcement authority(ies) in the electronic record (or case record, as applicable) and the information provided.
- **Notify Parent(s)/Caregiver(s), Alleged Perpetrator and Department Staff.** The Area Director/designee, or SIU Director/designee as applicable, sends the appropriate notice letter advising the **parent(s)/caregiver(s)** that their situation has been referred to the District Attorney, unless the District Attorney requests that such notification not occur. The Area Director/designee, or SIU Director/designee as applicable, arranges for a copy of the signed and dated notice letter to be included in the physical record, generally by sending it to the **currently assigned Social Worker**.

The Area Director/designee, or SIU Director/designee as applicable, ensures that the appropriate notice letter is sent to the **alleged perpetrator**, unless the District Attorney requests that such notification be held for a period of up to 20 working days after completion of the referrals to the District Attorney(s) and local law enforcement authority(ies). At the time the notice letter is sent, the Area Director/designee, or SIU Director/designee as applicable, ensures that:

- the notice letter is signed and mailed to the address of the alleged perpetrator(s) identified on the Central Registry or on the Registry of Alleged Perpetrators and a copy of the letter is filed electronically in the electronic record (or case record, as applicable), and
- a copy of the signed notice letter is included in the physical record by the **Social Worker currently assigned** to the family, when applicable.

- **Consider Whether to Share Supplemental Information with the DA.** The Social Worker or other Department employee may disclose to the District Attorney any information obtained by the Department in connection with a 51A report or 51B response that has been referred to the District Attorney. With regard to a discretionary referral, the Social Worker or other Department employee may disclose to the District Attorney the information that led to the referral decision.
 - **Release Further Information When Requested, with Commissioner/Designee Approval.** Additional documents (other than the 51A report and 51B response written report) may be released to the District Attorney, upon request, if the Commissioner/designee determines that such information is directly relevant to the law enforcement investigation or prosecution and that the release would not be contrary to the best interests of the child(ren).
6. **Participate in Multi-Disciplinary Service Teams (MDST).** The Area Director, with the applicable District Attorney, will coordinate MDST reviews for mandatory and discretionary referrals that would benefit from a formal review by a full MDST. Members of the MDST shall otherwise consult as necessary to support informed case management decision-making. More than one team may be developed based on the nature of the situation referred or a protocol developed between the Department and the District Attorney. The Area Director and the District Attorney identify the members of the MDST.
- **MDST Membership:** The Multi-Disciplinary Service Team shall consist of: the currently assigned Social Worker, the Supervisor (if requested), a representative of the applicable District Attorney and at least one other member who is not employed by either the Department or the District Attorney's office. The additional, independent team member shall be a person who has training in child welfare and/or criminal justice and, where practicable, shall be involved or likely to become involved with delivering services to the family named in the referred case. When the referring Department worker learns or suspects that the child who is to be the subject of the MDST is or may be of American Indian or Alaskan Native origin, the Department must provide for the appointment of a tribal representative. (See Indian Child Welfare Act Policy)
- If the referral involves a victim of sexual exploitation and/or human trafficking, the MDST must include, in addition to those persons listed above: a police officer/designee of the police chief, a social service provider, a medical professional or mental health professional and others deemed appropriate. All members of the Team shall be trained, or otherwise experienced or qualified, to assess the needs of child victims of sexual exploitation and/or human trafficking.
- **Purpose of MDST Meetings:** The MDST shall have full access to the Action Plan and any personal data known to the Department, whether from the 51B process, assessment or ongoing casework, or other sources, that would assist with MDST efforts to provide services and support to the subject child(ren) and family. The Area Director and District Attorney will determine the schedule of meetings for the Multi-Disciplinary Service Team. The Social Worker documents in the electronic case record: the date, participants, content and outcome of the MDST meeting. The MDST is convened for the following purposes:
 - to discuss the current status of the child and family and any intervention initiated;
 - to review and discuss any existing Action Plan for the family, including making recommendations for revisions to the plan;
 - to make recommendations as to the advisability of prosecuting any members of the family or using diversionary alternatives;
 - to discuss the possible effects of prosecution on the child and family;
 - to explore the possibility of utilizing any existing diversionary programs; and/or
 - for situations involving victims of sexual exploitation and/or human trafficking, to determine if the child was sexually exploited and/or a victim of human trafficking and to recommend a plan for services, which may include shelter or placement, addressing mental health and medical care needs and other services as needed.
 - **Sharing of Action Plan with DA.** Prior to the meeting of the MDST, the Area Director shall ensure that a copy of the Department's Action Plan for the child and family, when completed, is forwarded to the District Attorney.

Additional or revised Action Plans may be forwarded at the request of the District Attorney and at the discretion of the Area Director. This decision should be based on the individual case and the level of involvement of the District Attorney.

The MDST may notify the District Attorney when a family has failed to participate in the Action Plan.

If the MDST finds that the services identified in the Action Plan have not been provided, the Team shall inform the Area Director.